

7/21/77 [2]

Folder Citation: Collection: Office of Staff Secretary; Series: Presidential Files; Folder: 7/21/77 [2]; Container 32

To See Complete Finding Aid:

http://www.jimmycarterlibrary.gov/library/findingaids/Staff_Secretary.pdf

THE WHITE HOUSE
WASHINGTON

July 21, 1977

Tim Kraft

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

cc: The Vice President
Stu Eizenstat
Frank Moore
Jack Watson

RE: AIRLINE REFORM LEGISLATION
STATUS REPORT

X

THE WHITE HOUSE
WASHINGTON

use pen to sign letters
R. L.

<input type="checkbox"/>	FOR STAFFING
<input type="checkbox"/>	FOR INFORMATION
<input checked="" type="checkbox"/>	FROM PRESIDENT'S OUTBOX
<input type="checkbox"/>	LOG IN/TO PRESIDENT TODAY
<input type="checkbox"/>	IMMEDIATE TURNAROUND

ACTION	FYI	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	MONDALE
<input type="checkbox"/>	<input type="checkbox"/>	COSTANZA
<input type="checkbox"/>	<input checked="" type="checkbox"/>	EIZENSTAT
<input type="checkbox"/>	<input type="checkbox"/>	JORDAN
<input type="checkbox"/>	<input type="checkbox"/>	LIPSHUTZ
<input type="checkbox"/>	<input checked="" type="checkbox"/>	MOORE
<input type="checkbox"/>	<input type="checkbox"/>	POWELL
<input type="checkbox"/>	<input checked="" type="checkbox"/>	WATSON
<input type="checkbox"/>	<input type="checkbox"/>	LANCE
<input type="checkbox"/>	<input type="checkbox"/>	SCHULTZE

<input type="checkbox"/>	ENROLLED BILL
<input type="checkbox"/>	AGENCY REPORT
<input type="checkbox"/>	CAB DECISION
<input type="checkbox"/>	EXECUTIVE ORDER
Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day	

<input type="checkbox"/>	ARAGON
<input type="checkbox"/>	BOURNE
<input type="checkbox"/>	BRZEZINSKI
<input type="checkbox"/>	BUTLER
<input type="checkbox"/>	CARP
<input type="checkbox"/>	H. CARTER
<input type="checkbox"/>	CLOUGH
<input type="checkbox"/>	FALLOWS
<input type="checkbox"/>	FIRST LADY
<input type="checkbox"/>	HARDEN
<input type="checkbox"/>	HUTCHESON
<input type="checkbox"/>	JAGODA
<input type="checkbox"/>	KING

<input checked="" type="checkbox"/>	KRAFT
<input type="checkbox"/>	LINDER
<input type="checkbox"/>	MITCHELL
<input type="checkbox"/>	MOE
<input type="checkbox"/>	PETERSON
<input type="checkbox"/>	PETTIGREW
<input type="checkbox"/>	POSTON
<input type="checkbox"/>	PRESS
<input type="checkbox"/>	SCHLESINGER
<input type="checkbox"/>	SCHNEIDERS
<input type="checkbox"/>	STRAUSS
<input type="checkbox"/>	VOORDE
<input type="checkbox"/>	WARREN

THE WHITE HOUSE
WASHINGTON

Mr. President:

If you approve the proposed letter to Magnuson, we will use the pen to sign letters (same text) to other members of the Committee.

ok

Rick

**Electrostatic Copy Made
for Preservation Purposes**

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

*ok to
see Anderson
J*

July 18, 1977

MEMORANDUM FOR:

THE PRESIDENT

FROM:

FRANK MOORE *F. m.*
STU EIZENSTAT *Stu*

SUBJECT:

Airline Reform Legislation Status Report

We are writing to inform you of the status of airline reform legislation.

Senate

The full Senate Commerce Committee is now in its third week of marking up the airline reform bill, and three sessions are scheduled this week. Senator Cannon is hoping to have the bill reported before the August recess so that the Senate can vote on it in September. The current progress, however, is slow, and the bill may not be reported until September. Whether the full Senate votes will depend upon their recess schedule and upon how hard we press for action.

The Committee has given tentative approval to 1) expedited procedures, 2) a pro-competitive policy statement and 3) most of the small community service program. We are closely monitoring the process, offering our amendments and lobbying for or against particular provisions.

The more difficult items will be considered during the next few weeks: pricing, entry, antitrust immunity and charter policy.

The vote is still unpredictable since many Senators are waiting to see the final product. At this time, we can count on support from six Senators out of eighteen members. Five seem undecided, and seven are tending to oppose. The "trouble spots" are Sens. Zorinsky, Melcher, Danforth, Griffin, Goldwater and Inouye.

Since we think the Committee will act favorably once the markup process is finally complete, we must get the Committee to act as quickly as possible, so a final vote can be taken this year.

**Electrostatic Copy Made
for Preservation Purposes**

We recommend that--

- You send the enclosed letter to members of the Committee urging prompt action
- You raise the issue at the next leadership meeting
- You mention the issue at the next Cabinet meeting, and urge Cabinet officers to help however they can.

The House

Rep. Glenn Anderson, Aviation Subcommittee Chairman, still has not introduced a reform bill, despite repeated pressure from us and from the Department of Transportation. He said that he will not introduce a bill until he has reported out of the full House Public Works Committee his bill to provide financing to airlines to meet federal noise regulations.

Last May, Secretary Adams testified in support of some, but not all, provisions of the noise bill. We supported a voluntary ticket tax to help carriers bring their aircraft into compliance with the noise regulations, but we opposed federal involvement in local decisions about airport land use, and we opposed a new expenditure program permitting Airport Trust Fund money to be spent to purchase land near airports.

Rep. Anderson has revised his bill so it is now even more unacceptable. The new draft 1) extends by seven years the noise compliance deadline for most aircraft; and 2) retains federal funding of land acquisition. The bill has stalled in his Committee for lack of support, and we have informed him that we cannot support his bill in its current form. We are attempting to work out a compromise which we can support. In the meantime, Anderson still has not introduced a reform bill, even though Secretary Adams told him last May that you would veto a noise bill that was not accompanied by a reform bill.

We recommend that you meet with Rep. Anderson to urge him to get moving on the reform issue.

THE WHITE HOUSE

WASHINGTON

7/21/77

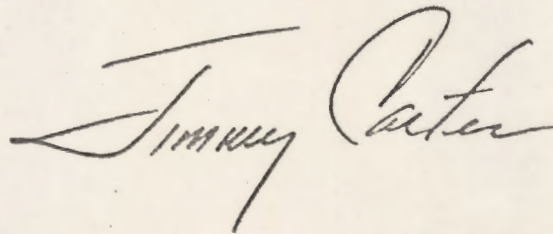
To Senator Warren Magnuson

The Congress, and in particular, the Senate Commerce, Science, and Transportation Committee, has played a leading role in identifying the need for airline regulatory reform, and moving to meet that need. I am sensitive to the difficulties, delays, and pressures which beset any legislative effort to reexamine a bureaucratic structure that has not been fundamentally changed since it was established nearly 40 years ago.

Because legislation reforming regulation of the domestic airline industry is so important, I hope your Committee will continue its hard work so that a satisfactory bill can be placed before the full Senate for action this year.

We share a mutual desire to see this important measure enacted into law as soon as practicable.

Sincerely,

A handwritten signature in cursive script, reading "Jimmy Carter". The signature is written in dark ink and is positioned below the word "Sincerely,".

The Honorable Warren G. Magnuson
United States Senate
Washington, D.C. 20510

THE WHITE HOUSE
WASHINGTON

July 21, 1977

Stu Eizenstat
Hamilton Jordan
Jack Watson

The attached was returned
in the President's outbox
and is forwarded to you for
your information. The original
article and note was forwarded
by us to Secretary Blumenthal.

Rick Hutcheson

RE: ARTICLE ON "ELIMINATION
OF A TAX BREAK FOR U.S.
EXPORTERS"

THE WHITE HOUSE
WASHINGTON

*orig of article + note to
Blumenthal
(not SE memo)*

<input type="checkbox"/>	FOR STAFFING
<input type="checkbox"/>	FOR INFORMATION
<input checked="" type="checkbox"/>	FROM PRESIDENT'S OUTBOX
<input type="checkbox"/>	LOG IN/TO PRESIDENT TODAY
<input type="checkbox"/>	IMMEDIATE TURNAROUND

*(don't indicate copies to
Blumenthal)*

ACTION	FYI	
		MONDALE
		COSTANZA
	<input checked="" type="checkbox"/>	EIZENSTAT
	<input checked="" type="checkbox"/>	JORDAN
		LIPSHUTZ
		MOORE
		POWELL
	<input checked="" type="checkbox"/>	WATSON
		LANCE
		SCHULTZE

<input type="checkbox"/>	ENROLLED BILL
<input type="checkbox"/>	AGENCY REPORT
<input type="checkbox"/>	CAB DECISION
<input type="checkbox"/>	EXECUTIVE ORDER
Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day	

<input type="checkbox"/>	ARAGON
<input type="checkbox"/>	BOURNE
<input type="checkbox"/>	BRZEZINSKI
<input type="checkbox"/>	BUTLER
<input type="checkbox"/>	CARP
<input type="checkbox"/>	H. CARTER
<input type="checkbox"/>	CLOUGH
<input type="checkbox"/>	FALLOWS
<input type="checkbox"/>	FIRST LADY
<input type="checkbox"/>	HARDEN
<input type="checkbox"/>	HUTCHESON
<input type="checkbox"/>	JAGODA
<input type="checkbox"/>	KING

<input type="checkbox"/>	KRAFT
<input type="checkbox"/>	LINDER
<input type="checkbox"/>	MITCHELL
<input type="checkbox"/>	MOE
<input type="checkbox"/>	PETERSON
<input type="checkbox"/>	PETTIGREW
<input type="checkbox"/>	POSTON
<input type="checkbox"/>	PRESS
<input type="checkbox"/>	SCHLESINGER
<input type="checkbox"/>	SCHNEIDERS
<input type="checkbox"/>	STRAUSS
<input type="checkbox"/>	VOORDE
<input type="checkbox"/>	WARREN

THE WHITE HOUSE
WASHINGTON

July 21, 1977

Secretary Blumenthal

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

RE: "ELIMINATION OF A TAX BREAK
FOR U.S. EXPORTERS"

THE PRESIDENT HAS SEEN.

WALL ST. JOURNAL, JULY 20

Mike - These specific
statements may very
well prove to be in
error. Keep options open.
J.C.

Carter to Seek Elimination of a Tax Break For U.S. Exporters, Blumenthal Indicates

By a WALL STREET JOURNAL Staff Reporter

WASHINGTON—Treasury Secretary Michael Blumenthal suggested that President Carter will ask Congress to do away with a tax break that saves U.S. exporters \$1 billion a year.

But he indicated that the President won't propose elimination of another provision—one that saves U.S. corporations about \$500 million a year by permitting them to defer taxes on the income of foreign subsidiaries until they bring the money home.

One Washington tax expert said later that the question of whether to propose an end to deferral is still undecided within the Carter administration. Elimination of the export break is almost certain to be part of the tax-revision package Mr. Carter has promised to submit by the fall, he added.

During last year's presidential campaign, candidate Carter said he was inclined to do away with deferral and would consider eliminating the export provision, too.

Although Congress tightened it up last fall, the tax break for exporters still permits them to defer taxes on some of the profits they allocate to Domestic International Sales Corporations, or DISCs. Exporters argue that the DISC provision encourages exports, while so-called tax "reformers" argue that it only provides exporters with a tax windfall.

In an appearance before the Senate Budget Committee, Secretary Blumenthal seemed to side with the "reformers," at least on the question of DISC. "We don't look with favor on DISC," he told the committee. "It costs a lot of money, and there isn't any way you can show an impact on the volume of exports."

"Reformers" also want to do away with deferral of taxes on the unrepatriated earnings of foreign subsidiaries. While Mr. Blumenthal acknowledged that deferral, too, is "under review," he said there's "a lot more evidence" that this provision promotes profitable overseas investment by U.S. companies.

Wholesale Price Decline Is Corrected for June

By a WALL STREET JOURNAL Staff Reporter

WASHINGTON—If you were pleased with the report that wholesale prices fell 0.6% in June, you'll probably be even happier to know that they actually fell 0.7%.

The Labor Department, in announcing the revised drop, said its earlier report had been off 0.1 percentage point because someone took down the price of raw cotton incorrectly. As a result of the correction, farm product prices plunged 6.8% rather than 6.3%, and

The Treasury Secretary was equally enthusiastic about a third provision, which permits U.S. taxpayers to reduce U.S. taxes on their foreign earnings by any foreign taxes paid on that income. This foreign tax credit, which saves U.S. business about \$3 billion a year, isn't a target of "reformers," however.

In response to another question about the Carter tax-revision package, Mr. Blumenthal said he suspected that the President would propose "a combination" of tax breaks to encourage capital formation and business investment.

He declined to be more specific, although he said the administration is considering various possibilities, including ending the so-called "double taxation" of corporate dividends, cutting corporate income-tax rates, easing depreciation rules and liberalizing the 10% investment tax credit.

While the "major goal" of tax revision will be to make the tax code simpler and fairer, he said, the Carter package will "in all likelihood" also contain "some reductions" for both corporations and individuals. The individual tax cuts would be concentrated on the "lower and middle" levels, Mr. Blumenthal added.

Amicor Inc. to Dispose Of Usuelli Operation Located in Milan, Italy

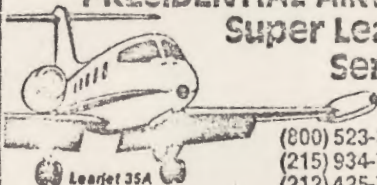
By a WALL STREET JOURNAL Staff Reporter

ATLANTA — Amicor Inc., said it will write down the remaining assets of its Usuelli operation in Milan, Italy, as a first step toward disposing of the unprofitable company.

Amicor said the write-down and provision for additional disposal costs, which will amount to a \$1.3 million pretax charge against earnings for the first six months of 1977, will result in the company's first loss since 1973.

The write-down will require that certain results of operations previously reported be reclassified. Amicor said that while the reclassification will reflect a higher level of earnings from continuing operations during

PRESIDENTIAL AIRWAYS
Super Learjet
Service



(800) 523-3430
(215) 934-7200
(212) 425-7750

Seven con
why you s
phototyp

THE WHITE HOUSE

WASHINGTON

July 21, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: STU EIZENSTAT *Stu*

SUBJECT: Tax Reform

I attach a copy of the Wall Street Journal article of July 20, which again has Secretary Blumenthal commenting on details of the tax proposal. In this article he is quoted as indicating that you will not propose elimination of the deferral of taxes on foreign income. It is my strong recollection that you specifically indicated at the end of the last meeting on tax reform that you wished to have this item included, and that it could always be taken out at a later point if you felt it to be necessary.

Electrostatic Copy Made
for Preservation Purposes

THE WHITE HOUSE
WASHINGTON

you may be interested in
this for your visit in
Louisiana

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE
WASHINGTON

July 21, 1977

MEMORANDUM FOR: THE PRESIDENT

FROM: STU EIZENSTAT *Stu*
LYNN DAFT *lyn*

SUBJECT: Sugar Policy

We met yesterday with Bob Bergland, Bob Strauss, Dick Cooper, Fred Bergsten, and representatives of OMB and CEA to review the situation regarding our proposed sugar program. In brief, the situation is this:

- o There are several proposals on the Hill, any one of which, if adopted, would effectively kill the program we have proposed. This includes an amendment to the farm bill sponsored by Congressman de la Garza that would legislate a price support program for sugar at 55% of parity and a joint resolution sponsored by Senator Dole that would overturn your decision regarding the ITC recommendation. There is sufficient disaffection within the Congress over this issue to suggest that these threats should be taken seriously.
- o The Comptroller General has advised Congressman Findley, in response to a request by the Congressman, that it is his opinion that the direct payment program we have proposed is not authorized under existing law. He argues that the proposed program would not support prices in the market, as the law requires.
- o We have resumed exploratory talks in London aimed at an international sugar agreement. Though they began only a couple days ago, we are hoping they will provide a basis for the resumption of full-scale talks in September.

**Electrostatic Copy Made
for Preservation Purposes**

In light of this situation, the group that met yesterday agreed to the following course of action:

- (1) Publicly, we will reaffirm our commitment (a) to the use of direct payments for immediate relief to sugar producers and (b) to aggressively pursue an international sugar agreement as a longer-term solution. We will also make clear our commitment to a 13.5¢ target for raw sugar and our willingness to take administrative action, as necessary, to achieve this target. A copy of Secretary Bergland's press release is attached.
- (2) Privately, we will ask the Attorney General for a ruling on the legality of the proposed program.
- (3) Concurrently, the Department of Agriculture will design an alternative program that will be offered for your approval, should the Attorney General rule against the program we have already proposed. We can remedy the legal problems with the current proposal without sacrificing its key principals. That is, we can still use a direct payment approach and thereby avoid both inflationary effects and a protectionistic trade posture. The one element of the current proposal we would have to forego is the 2¢ per pound payment limit. Though this could add another \$200 million to budget costs if sugar prices remain depressed and no agreement is negotiated, we think this is the next best solution. All agencies, including OMB, agree.

We will keep you posted.

While final details of the new proposal are now being worked out, it will entail payments to the processor, with a pass-through to the producer, rather than a direct payment to the producer.

-Contact: Tom Sand
447-7231

FOR IMMEDIATE RELEASE

July 20, 1977

U.S. Secretary of Agriculture Bob Bergland tonight reaffirmed the Carter Administration's commitment to assure domestic sugar producers 13 1/2 cents per pound, but made it clear that "we do not need legislation to accomplish this goal."

Following a meeting at the White House this afternoon with the U.S. Special Trade Representative, members of the Domestic Council staff and representatives of the Council of Economic Advisers and the Departments of State and Treasury, Bergland said that "the Administration still believes that the best long-term solution to sagging sugar prices is an international agreement with other producing countries."

Bergland urged the House of Representatives, now considering farm legislation, "not to impose a sugar policy on the U.S. government without the benefit of thorough study and complete public hearings."

- - - - -

THE WHITE HOUSE
WASHINGTON

July 21, 1977

Stu Eizenstat
Jim Fallows

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

cc: Frank Moore

RE: URBAN LEAGUE SPEECH

THE PRESIDENT HAS SEEN.
MEETING WITH PRESIDENT CARTER ON THURSDAY MORNING
JULY 21, 1977 - 9:30 A.M.

DISCUSSION POINTS

*Ste - Jim -
Consult & Hand -
Draft Urban
League comments
based on This -
Keep it very
brief.
J*

- I. Two major problem areas under which any number of other problems can be subsumed. These matters are urgent enough to prompt my request for a meeting:
 - A. Unemployment and underemployment in Black communities. Obviously Housing, Health, Education, Law Enforcement and many other areas are adversely affected by unemployment and underemployment.
 1. See attached "Crisis in Black America" based on Department of Labor statistics.
... a devastating report on harsh economic realities far too many Black citizens confront.
 2. The desire of the Congressional Black Caucus to work with the President to diminish the impact of this crisis.
 - B. The growth and spread of anti-Black, anti-poor attitudes which has lead to successful attacks against affirmative action programs and EOC operations. I.E. crippling Amendments to the Labor-HEW Appropriations Bill.
 1. Obviously a growing mood of frustration, discouragement and even anger has developed in Black communities when we see past gains threatened or curtailed.
 2. The absolute necessity for Presidential leadership in reaffirming the Nation's commitment to equal opportunity.

**Electrostatic Copy Made
for Preservation Purposes**

"CRISIS IN BLACK AMERICA"

According to official Bureau of Labor statistics:

45% of black teenagers are unemployed, up almost 5% since January 1, 1977.

However, roughly another 30% are unofficially unemployed for four reasons:

- 1) have not been able to enter the labor force
- 2) have given up looking for work
- 3) involuntarily are working part-time
- 4) are school drop-outs still classified as students.

14% of all blacks are unemployed, up almost 3% since January 1, 1977.

However, roughly another 10% are unofficially unemployed.

Thus, about 75% of black youth and 24% of all blacks are unemployed and subemployed.

The 200,000 public service jobs created in 1977 and the 400,000 public service jobs created in 1978 will reduce overall unemployment by a maximum of 0.5%, and black unemployment by 0.2%.

The \$4 billion public works program will generate about 300,000 direct and indirect jobs, most of which will go to skilled and semi-skilled white construction workers. This program would reduce black unemployment by a maximum of 0.1%.

Somewhere between 500,000 and 1 million illegal aliens are expected to enter the U.S. this year. This number will be sufficient to entirely offset the job-creating impact of the Administration's stimulus package for fiscal 1978.

Prison populations are increasing by over 10% a year. At this rate, by 1986 over half a million adults and youth will be in prisons, over 70% of them black.

According to an EEOC study, employment discrimination cost black workers almost \$61 billion in lost wages between 1969 and 1974.

In the 1960's, the mortality rate for non-white males 15-24 years of age rose 42%, compared to 22% for whites.

Between March 1975 and March 1976, central cities sustained a net population loss of 2 million people.

In the 15 largest metropolitan areas, the central cities share of metropolitan jobs dropped from 63% in 1960 to almost 45% in 1977. At the same time, the percentage of poor people in these cities who are black rose from 37% to 50%.

(2)

- II. The Congressional Black Caucus has specific recommendations on more narrow problem areas and therefore wants to meet with you as soon as is possible. Examples of the kinds of specifics to be discussed: Civil Rights Reorganization Plan (as discussed in Plains, Georgia); Welfare Reform; Utilization of minority business by Federal Agencies, etc.
- III. Progress Report on Meetings with Members of the Cabinet ...
- IV. The significance of some of the Presidential Appointments ...
- V. The OMB proposals for drastic reductions in the Housing Subsidy Program ...
- VI. The Administration and Minority Business. To date no definitive statement from the President on this issue ...
- VII. Will the President bring greetings to the Annual Congressional Black Caucus Dinner?

THE WHITE HOUSE
WASHINGTON

	FOR STAFFING
	FOR INFORMATION
X	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

ACTION
FYI

	MONDALE
	COSTANZA
X	EIZENSTAT
	JORDAN
	LIPSHUTZ
f.	MOORE
	POWELL
	WATSON
	LANCE
	SCHULTZE

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER
	Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

	ARAGON
	BOURNE
	BRZEZINSKI
	BUTLER
	CARP
	H. CARTER
	CLOUGH
X	FALLOWS
	FIRST LADY
	HARDEN
	HUTCHESON
	JAGODA
	KING

	KRAFT
	LINDER
	MITCHELL
	MOE
	PETERSON
	PETTIGREW
	POSTON
	PRESS
	SCHLESINGER
	SCHNEIDERS
	STRAUSS
	VOORDE
	WARREN

THE WHITE HOUSE
WASHINGTON

July 21, 1977

Jim Schlesinger -

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

cc: Hamilton Jordan
Frank Moore

RE: INDUSTRIAL OIL AND GAS
TAXES

THE WHITE HOUSE
WASHINGTON

	FOR STAFFING
	FOR INFORMATION
X	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

ACTION
FYI

	MONDALE
	COSTANZA
	EIZENSTAT
X	JORDAN
	LIPSHUTZ
X	MOORE
	POWELL
	WATSON
	LANCE
	SCHULTZE

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER
	Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

	ARAGON
	BOURNE
	BRZEZINSKI
	BUTLER
	CARP
	H. CARTER
	CLOUGH
	FALLOWS
	FIRST LADY
	HARDEN
	HUTCHESON
	JAGODA
	KING

	KRAFT
	LINDER
	MITCHELL
	MOE
	PETERSON
	PETTIGREW
	POSTON
	PRESS
X	SCHLESINGER
	SCHNEIDERS
	STRAUSS
	VOORDE
	WARREN

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

To Jim
J
Thank Dingle
Frank did -

MEMORANDUM FOR THE PRESIDENT

FROM: JAMES R. SCHLESINGER

SUBJECT: Industrial Oil and Gas Taxes

One of the most important parts of your energy plan is the tax on industrial use of oil and gas. About 60 percent of the oil savings from the plan would come from this proposal.

The Ways and Means Committee bill contains a large number of exemptions that reduced savings to 20 percent of what your proposal would have achieved. We have developed a counter proposal for the Ad Hoc Committee which would achieve two-thirds of the energy savings and would bring in an additional \$8 billion to the Treasury.

That proposal would:

- Tax all industrial use of gas at the BTU equivalent of oil. This would place oil and gas costs to industry on a par, except for boiler use, where the oil tax would be above the world price to prevent shifts from gas to residual fuel oil.
- Tighten up some of the exemptions for the tax on oil.

There is good receptivity to this proposal from Chairman Ashley and Members of the Ad Hoc Committee. The stumbling block we are facing is Chairman Ullman who believes he cannot go back on the Ways and Means Committee bill. Other members of that Committee, although favorable to the proposal, are reluctant to go against the Chairman. If we do not move Ullman off his current posture of opposition, the strengthening of the oil and gas taxes could fail.

I recommend that you call Speaker O'Neill, Chairman Ashley, and Chairman Ullman. ^{done} ^{done} ^{done}

The main arguments to make are:

- These changes triple energy savings, over the Ways and Means bill, from about 600 thousand barrels a day oil equivalent to over 2 million barrels.
- Industrial use of gas should be taxed at its replacement value, the BTU equivalent of oil.
- The current patchwork of exemptions will lead to inequities and unknown competitive problems among regions and industries.
- By 1985, the total impact of this proposal on industrial prices is only .45 to .65 percent.

THE WHITE HOUSE
WASHINGTON

July 21, 1977

TO: Stu Eizenstat
Frank Moore
Jack Watson
Bert Lance
Charlie Schultze
Tim Kraft
Jim Schlesinger

The attached was returned in
the President's outbox and is
forwarded to you for your information.

Rick Hutcheson

RE: DOUG COSTLE'S MEMO ON CONTINGENCY
PLANS FOR 1978 AUTO SALES

THE WHITE HOUSE
WASHINGTON

<input type="checkbox"/>	FOR STAFFING
<input type="checkbox"/>	FOR INFORMATION
<input checked="" type="checkbox"/>	FROM PRESIDENT'S OUTBOX
<input type="checkbox"/>	LOG IN/TO PRESIDENT TODAY
<input type="checkbox"/>	IMMEDIATE TURNAROUND

ACTION	FYI
<input type="checkbox"/>	MONDALE
<input type="checkbox"/>	COSTANZA
<input checked="" type="checkbox"/>	EIZENSTAT
<input type="checkbox"/>	JORDAN
<input type="checkbox"/>	LIPSHUTZ
<input checked="" type="checkbox"/>	MOORE
<input type="checkbox"/>	POWELL
<input checked="" type="checkbox"/>	WATSON
<input checked="" type="checkbox"/>	LANCE
<input checked="" type="checkbox"/>	SCHULTZE

<input type="checkbox"/>	ENROLLED BILL
<input type="checkbox"/>	AGENCY REPORT
<input type="checkbox"/>	CAB DECISION
<input type="checkbox"/>	EXECUTIVE ORDER
	Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

<input type="checkbox"/>	ARAGON
<input type="checkbox"/>	BOURNE
<input type="checkbox"/>	BRZEZINSKI
<input type="checkbox"/>	BUTLER
<input type="checkbox"/>	CARP
<input type="checkbox"/>	H. CARTER
<input type="checkbox"/>	CLOUGH
<input type="checkbox"/>	FALLOWS
<input type="checkbox"/>	FIRST LADY
<input type="checkbox"/>	HARDEN
<input type="checkbox"/>	HUTCHESON
<input type="checkbox"/>	JAGODA
<input type="checkbox"/>	KING

<input checked="" type="checkbox"/>	KRAFT
<input type="checkbox"/>	LINDER
<input type="checkbox"/>	MITCHELL
<input type="checkbox"/>	MOE
<input type="checkbox"/>	PETERSON
<input type="checkbox"/>	PETTIGREW
<input type="checkbox"/>	POSTON
<input type="checkbox"/>	PRESS
<input checked="" type="checkbox"/>	SCHLESINGER
<input type="checkbox"/>	SCHNEIDERS
<input type="checkbox"/>	STRAUSS
<input type="checkbox"/>	VOORDE
<input type="checkbox"/>	WARREN

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE
WASHINGTON

July 20, 1977

*No - Hold off
any plan for now.
J
See me later*

MEMORANDUM FOR

THE PRESIDENT

FROM

STU EIZENSTAT
KITTY SCHIRMER

KS for Stu

SUBJECT

DOUG COSTLE'S MEMO ON CONTINGENCY
PLANS FOR 1978 AUTO SALES

Attached is a memorandum from Doug Costle outlining a proposed EPA contingency plan for dealing with the possibility of lack of Congressional action on the Clean Air Act before the August recess. As you know, model year 1978 automobiles cannot meet the statutory auto emission standards now contained in the Clean Air Act. Shipment of these cars will begin on August 8, and sales are scheduled in mid-September. Unless some action is taken, either legislative or administrative, the industry cannot sell cars.

Everyone is in agreement that the best resolution of this problem would be Congressional action on the entire package of Clean Air Act Amendments, including the auto issue, before the August recess. We are working with the Conference Committee and Frank Moore's office to determine the best way to speed resolution. However, Congressional resolution is uncertain, and there is general agreement that EPA must have some mechanism for permitting auto shipments and sales in a manner which keeps the pressure on Congress to act, but which does not force an industry shutdown or delay in sales. Doug proposes a contingency plan which would:

- Permit shipment of cars during August without any EPA enforcement action
- If Congress still has not acted by the time cars are scheduled for sale, seek a Court-imposed penalty equal to 1% of the sticker price of the car, and a prohibition on passing this penalty through to the consumer.

**Electrostatic Copy Made
for Preservation Purposes**

- Any announcement of this policy would make clear that EPA will give Congress maximum leeway to act before actually seeking to collect the penalty, but if it becomes clear that Congress is not going to resolve the issue, it cannot ignore its responsibility to enforce the law.

This strategy presents a credible alternative to shutdown, but keeps the pressure on the auto industry and others to urge Congressional action. It simultaneously lessens the pressure for splitting off the auto emissions portion of the Act since there is a means by which cars can be sold.

Separate action on the auto issue would probably be unworkable since it is unlikely that either Senator Muskie or Senator Hart would agree to such a strategy. It would also be unfortunate from a policy standpoint since the auto issue is the driving force in obtaining resolution on other controversial, but critical parts of the Clean Air Act. A lot of hard work on these other issues would be lost if autos are dealt with alone.

RECOMMENDATION

OMB, Frank Moore, Jim Schlesinger and I concur with Doug's recommendation that you approve the contingency plan outlined in his memo, but continue to press for Congressional resolution of the issue. Schlesinger adds, and I agree, that we should contact John Dingell before making any announcement, and take care that it does not conflict with action in the Ad Hoc Committee. We will work with Jim, Doug and Frank Moore to determine when this plan would be announced. Charlie Schultze basically agrees that some contingency plan may be needed, but emphasizes that collection of penalties should be delayed as long as possible to give Congress maximum leeway. He and Doug have talked, and Doug has agreed to make this clear. Schultze's memo is attached.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 19 1977

THE ADMINISTRATOR

SUBJECT: EPA Contingency Plan on 1978
Automobiles

MEMO TO: The President

FROM: Douglas M. Costle
Administrator

INTRODUCTION

Manufacture of model year 1978 automobiles is scheduled to begin in August 1977. These new cars cannot meet the 1978 emission standards now required by the Clean Air Act. Amendments to the Clean Air Act which would, among other things, relax the 1978 standards to a level these new cars can meet are now being considered in a House/Senate conference. If Congress fails to complete action on these amendments prior to the August recess, shipment of these new vehicles in commerce would be illegal.

The purpose of this memo is to set forth a proposed EPA strategy to deal with this contingency so as to:

- Keep pressure on the Congress to resolve the emissions issue, but without forcing an industry shutdown.
- Prevent pressure for separating the auto issue from the other aspects of the Clean Air Act from building to an irresistible point.
- Demonstrate that the government will not (and cannot afford to) ignore patent violations of law.

- Demonstrate that there is a clear opportunity for the industry to avoid a shutdown, thereby making industry threats of shutdown less credible.

SUMMARY OF EPA CONTINGENCY PLAN

If you concur, I intend to announce the contingency plan described below to meet these objectives. I would emphasize both to you and in any statement I might make that our first preference, and our continuing goal, is Congressional resolution of this issue before the August recess.

1. EPA will permit shipment of 1978 autos from factories to dealers under consignment and will seek no penalties for shipment.
2. If Congress fails to act prior to the first sales of model year 1978 autos (mid-September), EPA will seek court orders imposing a penalty equal to 1 per cent of the vehicle sticker price. In the event that Congress does not act in this session EPA would seek second phase penalty equal to the cost of compliance with current statutory emission standards (\$300 to \$360). (It is doubtful that this second phase ever would be required, since this plan keeps the impetus on Congress to act.)
3. In applying for penalties in court, EPA will seek to prohibit the manufacturer from passing on the cost of the penalty to the dealer or the consumer.

BENEFITS OF EPA CONTINGENCY PLAN

- Manufacturers may ship without penalty and thus are given a clear alternative to halting production.
- Congress is given until late September or early October (traditional model year introduction date) to act before any manufacturer will be disrupted or subjected to penalty.

- Penalty proposal demonstrates that EPA will not ignore violations if Congress fails to act.
- Policy sets penalties at a level which will result in only minimal economic impact.
- EPA attempts to protect the consumer by requiring that penalties be taken from company profits.

RISKS

Manufacturers may refuse to ship or sell cars under a penalty scheme. Chrysler and GM have stated they will not ship or sell cars unless EPA declares such actions to be legal. However, an industry refusal to produce cars under the proposed contingency plan would, in my opinion, not be credible either to the public or the Congress.

I have discussed this subject with Douglas Fraser. While he has not committed to support EPA, Mr. Fraser has told me that if the industry rejects EPA's plan the UAW would want to have further talks with EPA. He recommended an early announcement of EPA plans for dealing with Congressional inaction.

OPTIONS REJECTED

I considered a number of other options before deciding on the course outlined above.

- A. Allow manufacturers to call their new cars 1977 models until the end of this calendar year. I rejected this option because it would have required the government to rely on an obvious artifice: that newly styled cars, introduced on the traditional new model year introduction date, were not 1978 cars but were simply "new 1977" models.
- B. Announce that EPA would seek no penalty on shipment or sale of new 1978 cars pending Congressional action. I rejected this option because it would require EPA to publicly turn a blind eye to wholesale violations of existing law.

- C. Require manufacturers to sign a consent decree before shipment and/or sale of any 1978 vehicles would be permitted. I rejected this option because a refusal by manufacturers to sign such a consent decree would produce a confrontation which can be avoided by having EPA simply seek penalties independently in court.
- D. Seek maximum penalty (\$10,000 per car) and/or seek injunction against shipment and sale of any new 1978 autos. I rejected this option because it would produce massive economic disruption and little if any environmental benefits (people would simply continue to drive older, dirtier cars).

POTENTIAL ECONOMIC IMPACT OF EPA CONTINGENCY PLAN

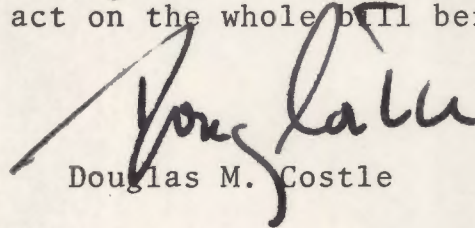
While EPA will seek to prevent the manufacturers from adding the 1 per cent penalty to the price of the car, if this effort should prove unsuccessful, higher retail prices will result in fewer car sales and reduced employment totals in the automobile industry. According to a Ford Motor Company sales forecasting model, the effects of this penalty, if reflected in retail prices, would be to reduce auto sales and auto industry employment by 0.4 per cent.

If, as intended, these penalties are not passed through, the above impacts will not occur. Published data for previous years indicate that General Motors and Ford profits will probably be high enough to absorb the 1 per cent penalty; Chrysler and American Motors profits may not be high enough to absorb the penalty if they do not have a strong sales performance.

If Congress acts before new cars are sold then no penalties would be imposed.

RECOMMENDATION:

That you approve announcement of the EPA contingency plan. I would hope that you might be available when appropriate to urge the leadership to act on the whole bill before their August recess.



Douglas M. Costle

Approve _____

Disapprove _____

See me _____

SCHULTZE MEMO

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

July 20, 1977

MEMORANDUM TO STU EIZENSTAT

FROM: Charlie Schultze *CLS*

SUBJECT: EPA Memo on Contingency Plans for Model Year
1978 Automobiles

The Administration and the President should do everything possible to get the amendments cleared by Congress. This should be our primary objective and strategy. Failing this CEA recommends that we substantially modify the contingency plan proposed by EPA. I have two observations on their proposal.

- . I have grave problems with a strategy of actually penalizing automobile companies and, very possibly, automobile consumers in order to put pressure on Congress.
- . Failing passage by the start of the recess we recommend that EPA announce the following contingency plan:
 - (a) EPA will uphold the law by seeking penalties for cars that do not meet the legal standards.
 - (b) In view of the current intent of Congress to change the actual standards with an effective date at the beginning of the model year, EPA will not actually collect the penalties until it can make a determination that Congress will not change the law applying to the 1978 model year (i.e. if the Act now before the Congress passes, the 1978 models sold in September will not have been in violation).

This plan would:

- . Demonstrate that EPA will not overlook wholesale violations of the law;
- . Avoid the likelihood that the automakers will in fact raise their prices to cover the penalty;
- . Avoid the legal problem that would arise when Congress does pass the amendments, which will retroactively make the auto companies be in compliance. At that point the auto companies would most likely sue for recovery of the penalties anyway.

THE WHITE HOUSE

WASHINGTON

July 21, 1977

Secretary Marshall -

Re: Administration Position on
Revision of the Tip Credit
in the Minimum Wage Amendments

The attached was returned in the President's
outbox and is forwarded to you for appropriate
handling.

Rick Hutcheson

cc: The Vice President
Stu Eizenstat
Hamilton Jordan
Frank Moore
Jack Watson
Bert Lance
Charlie Schultze

cc Marshall -
(his note only)

THE WHITE HOUSE
WASHINGTON

Others can
see SE
note

	FOR STAFFING
	FOR INFORMATION
<input checked="" type="checkbox"/>	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

ACTION
FYI

<input checked="" type="checkbox"/>	MONDALE
	COSTANZA
<input checked="" type="checkbox"/>	EIZENSTAT
<input checked="" type="checkbox"/>	JORDAN
	LIPSHUTZ
<input checked="" type="checkbox"/>	MOORE
	POWELL
<input checked="" type="checkbox"/>	WATSON
<input checked="" type="checkbox"/>	LANCE
<input checked="" type="checkbox"/>	SCHULTZE

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER
	Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

	ARAGON
	BOURNE
	BRZEZINSKI
	BUTLER
	CARP
	H. CARTER
	CLOUGH
	FALLOWS
	FIRST LADY
	HARDEN
	HUTCHESON
	JAGODA
	KING

	KRAFT
	LINDER
	MITCHELL
	MOE
	PETERSON
	PETTIGREW
	POSTON
	PRESS
	SCHLESINGER
	SCHNEIDERS
	STRAUSS
	VOORDE
	WARREN

THE PRESIDENT HAS SEEN.

U. S. DEPARTMENT OF LABOR
OFFICE OF THE SECRETARY
WASHINGTON

July 20, 1977

*Ray -
I oppose any
change in the
present law on
tip credit
J.C.*

MEMORANDUM FOR THE PRESIDENT

FROM: Ray Marshall *RM.*
Secretary of Labor

SUBJECT: Administration Position on Revision of the
Tip Credit in the Minimum Wage Amendments

On July 19, 1977, the House Committee on Education and Labor ordered reported the amendments to the Fair Labor Standards Act containing the compromise agreement to increase the minimum wage. In addition to repealing or modifying some of the exemptions in the Act, the Committee approved a revision in the current 50 percent tip credit by establishing a maximum allowance for tips of \$1.15 an hour on January 1, 1978, \$1.10 on January 1, 1979, \$1.05 on January 1, 1980, and \$1.00 on January 1, 1981, and thereafter. This was a significant modification from both the original Dent bill which would have repealed the tip credit outright, as well as from the phaseout of the tip credit as originally announced by Congressman Burton and as proposed in a bill introduced by Senator Williams on July 15.

I believe the Administration has two options with respect to this issue--(1) support the tip credit provision in the House bill or (2) oppose any change in the tip credit provision in the Act.

Option 1--Support the House Committee Tip Credit Provision

Administration support might head off attempts to repeal or phase out the tip credit on the Senate side. Total elimination of the tip credit would have a substantial impact on wage bill costs--an annual increase of more than \$1 billion over the cost of the present 50 percent tip credit--particularly in the restaurant, hotel, and motel industries. In

Electrostatic Copy Made
for Preservation Purposes

contrast, the much more modest House Committee provision would result in an increase of \$65 million the first year, \$114 million the second, and \$172 million the third. From the point of view of tipped employees the House Committee provision would provide them with a greater share of the mandated increases in the minimum wage, and an equal share after the tip credit reaches the \$1.00 plateau. Inasmuch as the changes are relatively modest, there should be little or no effect on employment or prices.

The U.S. Department of Commerce, in the U.S. Industrial Outlook 1977, projected a particularly bright future for eating and drinking places. The good portents for the industry included increases in consumer disposable income and a willingness to spend it on meals. This projection is reflected even in California where employment and sales in the commercial food service industry increased between 1975 and 1976 even though no tip credit is permitted.

Option 2--Oppose the House Committee Provision and Retain the Current 50% Tip Credit

The relative reduction in percentage terms of the tip credit might cause some employers to shift to a service charge which could lower combined wage and tip compensation of tipped employees. The added cost of the House Committee provision might (although this did not happen in California) encourage some employers to convert to alternative methods of serving customers--buffet or cafeteria.

Recommendation

On balance, I believe support of the House provision will prevent the adoption of outright repeal and might help expedite enactment of this critically needed legislation.

This morning Congressman Burton called to request that the Administration not oppose actively any of the Committee's amendments. He believes that many of these are needed to trade off on the Floor if we are to protect the basic changes needed in the law.

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE
WASHINGTON

July 21, 1977

cr
To: President

MEMORANDUM FOR THE PRESIDENT

FROM: STU EIZENSTAT *Stu*
SUBJECT: Minimum Wage - Tip Credit

In the attached memo, Ray Marshall urges you to shift your position on the tip credit and accept the compromise phasedown adopted by the House Committee. He reasons that we might thereby head off attempts to repeal the credit in the Senate.

I disagree with his recommendation.

- I believe the tip credit should be retained intact. Employers whose wage bills rise sharply for tipped employees will have a strong incentive to use fewer such employees. These workers are disproportionately women, students, part-time workers and minorities.

- Our tactical position is much stronger in the Senate if we fight for and win the battle to retain the tip credit on the House floor. Given the closeness of the Committee vote to phasedown the credit (22-14) we are likely to win. If we lose we can always compromise later.

Electrostatic Copy Made
for Preservation Purposes

THE WHITE HOUSE
WASHINGTON

July 21, 1977

Frank Moore
Tim Kraft

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

cc: Richard Harden
Fran Voorde
Les Francis
RE: COMPUTER SYSTEM USED FOR
VOTING RECORDS AND ANALYSIS

THE WHITE HOUSE
WASHINGTON

*cc has
Frances*

	FOR STAFFING
	FOR INFORMATION
X	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

ACTION	FYI
	MONDALE
	COSTANZA
	EIZENSTAT
	JORDAN
	LIPSHUTZ
X	MOORE
	POWELL
	WATSON
	LANCE
	SCHULTZE

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER
	Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

	ARAGON
	BOURNE
	BRZEZINSKI
	BUTLER
	CARP
	H. CARTER
	CLOUGH
	FALLOWS
	FIRST LADY
X	HARDEN
	HUTCHESON
	JAGODA
	KING

X	KRAFT
	LINDER
	MITCHELL
	MOE
	PETERSON
	PETTIGREW
	POSTON
	PRESS
	SCHLESINGER
	SCHNEIDERS
	STRAUSS
X	VOORDE
	WARREN

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

July 18, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: FRANK MOORE *Jm*

SUBJECT: Computer System Used for Voting
Records and Analysis

Attached you will find a memo from Richard Harden, describing the computer system we have put into operation in the Congressional Liaison office. A separate memo from Les Francis demonstrates a few possible applications of the system and indicates the kind of political analysis the system enables us to perform.

In addition, we thought you might want to take 10 or 15 minutes to observe a demonstration of the system in operation. Please let me know if you wish to do so.

in the next two weeks

YES

✓

NO

Electrostatic Copy Made
for Preservation Purposes

*during Cong
recess -*

Frank -
Votes chosen are divisive
on L.6/conservative base/Hart
basis - Pick 25-30 votes
& include Republicans - give
me a print out arranged
by % of support.
J

THE WHITE HOUSE

WASHINGTON

July 18, 1977

MEMORANDUM FOR:

THE PRESIDENT

FROM:

RICHARD HARDEN

SUBJECT:

Computerized Congressional
Vote Analysis

As Frank Moore mentioned to you, we have developed a simple system for analyzing Congressional votes. The purpose of this memo is to briefly explain the technical aspects of the system.

There is a computerized file on each Congressman containing the following information:

- Name
- Party
- State
- Committee Assignments - Chairman/Member
- White House Contact
- Other Contacts
- Roll Call Votes and Vote Counts

The Other Contacts field is provided to permit Frank to quickly identify individuals throughout the Administration who have a special relationship with a given Congressman or Senator.

Any number of votes can be maintained on file. We currently have 33 roll call votes and 2 vote counts.

You operate the system by simply specifying the values for particular variables you select. For example, we recently identified all the Democrats who had indicated that they are against the consumer protection proposal. In printing that list we can also ask for the "Other Contacts" as a way of determining who can help in working with these individuals.

We can also examine how these people have voted in the past on similar issues to get some indication of the likelihood that we might be able to change their votes. In regard to your participation in campaign efforts next year, we can quickly determine the degree to which an individual has voted with the Administration on key votes.

We have made an effort to insure that no sensitive, personal information is placed on the file with the emphasis on information that is available to the general public.

We have also set the system up so that it can be utilized by other agencies. In that regard Schlesinger's staff is currently conducting a detailed analysis on prior energy votes in an effort to be better prepared for the up-coming votes.

Let me know if you have any questions.

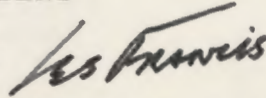
THE WHITE HOUSE

WASHINGTON

July 18, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: LES FRANCIS



SUBJECT: Sample Analysis of Support for Administration
in the House of Representatives

I. Introduction

One of the most useful applications we can make of the computer system Richard Harden has described to you, is to determine sources of strength and areas of weakness for the Administration's programs in the Congress. The information thus derived can be used in allocating resources more effectively (including your time), in generating support on the Hill.

In this memorandum I will address myself to the following topics:

- General level of support in the House of Representatives;
- Congressional support by regions;
- Support in the House according to levels of seniority and leadership status;
- Individual Representatives who have been especially supportive and those who have not; and
- Conclusions and future uses of the system.

In this initial study, we have identified six key votes in the House of Representatives which cut across a variety of issues. A brief description of each follows:

- Roll #11: Final passage of the Emergency Natural Gas Act (passed 336-82; Administration position was "Yes");
- Roll #42: Amendment to restore funds for nuclear carrier. (Failed 161-252; Administration position was "No");

- Roll #56: Motion to recommit \$50 rebate (failed 194-219; Administration position was "No");
- Roll #70: Repeal of Byrd amendment on Rhodesian chrome (passed 250-146; Administration position was "Yes");
- Roll #162: Emery amendment to the First Budget Resolution to remove funds for water projects (failed 143-252; Administration position was "Yes");
- Roll #289: Preyer substitute to Clean Air Act (failed 190-202; Administration position was "Yes").

II. Overall Support in the House of Representatives

Despite the fact that this analysis is based on only six votes, we find some interesting trends. A disturbing fact is that the Democratic majority in the House has exhibited a relatively low level of support for the Administration on these crucial issues. The mean average among Democrats was only 68.5%, although the median was approximately 80%. (53 Members "scored" 100%, 70 at 83.3%, and 27 at 80%.)

By categorizing the Democratic membership according to geography, seniority, and leadership status, we can see where we need to do additional work.

III. Support by States and Regions in the House

For purpose of illustration, the average (mean) level(s) of support for six states are noted below:

California:	78.2% (29 Democratic Representatives)
Georgia:	38.3% (10 Democratic Representatives)
Illinois:	76.5% (11 Democratic Representatives)
Massachusetts:	86.7% (9 Democratic Representatives)
New York:	82.8% (28 Democratic Representatives)
Texas:	29.0% (21 Democratic Representatives)

Using the alignments adopted by the DNC for its organizational purposes, we find a wide variation in support among the seven geographical regions:

Northeast:	84.7% (44 Democratic Representatives)
Mid-Industrial:	79.5% (51 Democratic Representatives)

Mid-Atlantic:	77.2%	(33 Democratic Representatives)
Southeast:	55.1%	(59 Democratic Representatives)
Plains:	80.4%	(21 Democratic Representatives)
Southwest:	30.2%	(35 Democratic Representatives)
Far West:	76.2%	(43 Democratic Representatives)

Of interest here is that the electoral strength demonstrated by the national ticket in the Northeast and the South in November has not carried over into the House of Representatives. Whereas the Northeast reflects a high level of support for the Administration on the six issues selected, the South does not.

On the other hand, whereas the Carter/Mondale ticket did not do well in the Plains states or the far West in November, we are experiencing success among the Democratic delegations from those states in the 95th Congress.

IV. Support by Levels of Seniority

Some limited calculations reveal that:

- Among the 32 most senior Democrats (those who have been serving 12 terms or more), the Administration experienced a 62% level of support on the six issues.
- Among the 15 Democrats who were first elected in the Johnson landslide of 1964 and who are serving in the 95th Congress, the level of support was 70.2%.
- Among the Democrats first elected to the 94th Congress (the group that it has been suggested should be your strongest base), the level of support was 76.9%. In addition, it is important to note here that of 53 Democrats who have scored 100%, 20 (37.7%) were first elected to the 94th Congress, a significant number considering the fact that they comprise only about one-fourth of the total House Democratic membership.
- Among this year's Freshmen, the Administration has not fared as well. The average level of support among this year's 46 new Members was 69.1%, which is closer to the overall Democratic average than it is to the average among second-termers.

V. Support Among Committee Chairmen

Chairmen of standing committees in the House demonstrated varying degrees of support for the Administration's position on the six issues, ranging from 0% (Roberts) to 100% (Rodino and Staggers). Percentages for the Chairmen are:

ASHLEY, Ad Hoc Energy	83.3%
BROOKS, Government Operations	40.0%
DELANEY, Rules.	83.3%
DIGGS, District of Columbia	75.0%
FLYNT, Standards of Conduct	16.7%
FOLEY, Agriculture.	80.0%
GIAIMO, Budget.	83.3%
JOHNSON, Public Works & Transportation.	66.7%
MAHON, Appropriations	16.7%
MURPHY, Merchant Marine & Fisheries	50.0%
NIX, Post Office & Civil Service.	83.3%
PERKINS, Education and Labor.	66.7%
PRICE, Armed Services	75.0%
REUSS, Banking, Finance & Urban Affairs	80.0%
ROBERTS, Veterans Affairs	0.0%
RODINO, Judiciary	100.0%
SMITH, Small Business	66.7%
STAGGERS, Interstate & Foreign Commerce	100.0%
TEAGUE, Science & Technology.	Absent
THOMPSON, House Administration.	80.0%
UDALL, Interior & Insular Affairs	80.0%
ULLMAN, Ways & Means.	83.3%
ZABLOCKI, International Relations	50.0%

Among chairmen of standing committees, support for the Administration's position averaged 66.4%, only slightly below the average for the total Democratic membership, but substantially less than that of both "Sophomore" members and, interestingly, the elected and appointed leaders of the House.

Jim Wright -----	83.3%
John Brademas -----	83.3%
Dan Rostenkowski -----	80.0%
Ben Rosenthal -----	83.3%
Bill Alexander -----	66.7%
George Danielson -----	83.3%
Tom Foley -----	80.0%
AVERAGE	<u>80.0%</u>

A summary of support by seniority and by leadership status follows:

- Most Senior Members (12 terms or more) ----- 62.0%
- Chairmen of Standing Committees ----- 66.4%
- First-term Members (elected November 1976) --- 69.1%
- Members First Elected in 1964 ----- 70.2%
- Members First Elected in 1974 ----- 76.9%
- Elected and Appointed Leadership ----- 80.0%

VI. Individual Supporters on All Six Issues

Those Democrats who voted with the Administration on all six roll calls were:

- | | |
|------------------|-----------------------|
| 1. Badillo | 19. Mitchell (Parren) |
| 2. Baucus | 20. Moakley |
| 3. Beard | 21. Moffett |
| 4. Bedell | 22. Moorhead |
| 5. Bingham | 23. Nolan |
| 6. Cavanaugh | 24. Ottinger |
| 7. Cornell | 25. Pease |
| 8. Downey | 26. Rodino |
| 9. Edwards (Don) | 27. Seiberling |
| 10. Fascell | 28. Solarz |
| 11. Fisher | 29. Spellman |
| 12. Jacobs | 30. Studds |
| 13. Kostmayer | 31. Tsongas |
| 14. Lehman | 32. Vento |
| 15. Lundine | 33. Waxman |
| 16. Maguire | 34. Wolff |
| 17. Markey | 35. Yates |
| 18. Mikva | |

By contrast, those Democrats who voted against the position of the Administration on all six issues were:

1. Burleson
2. English
3. Hightower
4. Huckaby
5. Roberts
6. Waggonner
7. White

VII. Conclusions and Future Uses of the System

1. The House Leadership has a good record of voting for the Administration's position on selected issues. However, Jim Wright apparently has been unable to exercise much influence with his colleagues from Texas and elsewhere in the Southwest.

2. Democrats from New England and the rest of the Northeast have been very supportive, whereas we are weakest in the South and Southwest.

3. Committee chairmen and those Democrats with the greatest seniority have been the least supportive of the Administration's positions.

4. The class of 1974, many members of which come from traditionally Republican districts or from very marginal districts, has been quite supportive of the President on key issues. However, the class of 1976, which has a decidedly different makeup (most come from historically safe Democratic districts), has not been as supportive.

Future Uses of the System

The information and conclusions derived from this kind of system have several applications. First of all, on issues that we have several votes on, we can make some early predictions on where our "automatic" strength ought to be as well as where intensive lobbying will be required. In addition, we will be able to match vote counts (surveys of how members say they are going to vote), against past performance on similar and/or identical issues.

Indications of general levels of support may also be used in scheduling decisions, not only for the President's time but that of Cabinet officers and White House staff as well. For example, meetings between the President and the Southwest delegation and committee chairmen might serve to generate higher levels of support for the Administration's program. Decisions on campaign appearances ought to be made only after an individual's voting record has been examined, etc.

We will continue to update our file and prepare ongoing analyses. Summaries of the information thus derived will be provided to you if you so desire.

NOTE: We are currently working on a similar analysis for the Senate.

THE WHITE HOUSE
WASHINGTON

July 19, 1977

The Vice President
Midge Costanza
Hamilton Jordan
Jack Watson
Tim Kraft

For your information.

Rick Hutcheson

RE: Computer System Used for
Voting Records and Analysis



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

July 21, 1977

MEMORANDUM FOR THE PRESIDENT

FROM:

JIM MCINTYRE

Jim McIntyre

C

SUBJECT: EMERGENCY LOAN CRITERIA

In response to your question on emergency loan criteria under the Small Business Administration's disaster loan fund, we are establishing an interagency working group to develop an options paper on tightening the disaster declaration criteria. The group will be chaired by HUD's Federal Disaster Assistance Administration (FDAA), which coordinates disaster declaration requests. The working group will include SBA and USDA. The options paper will be part of the 1979 budget review and will be due to OMB by October 15, 1977. We will convey this request to FDAA and closely monitor the development of the options paper.

**Electrostatic Copy Made
for Preservation Purposes**

Congressional Black Caucus

306 House Annex

Washington, D.C. 20515

202-225-1691

July 15, 1977

Parren J. Mitchell, Md., Chairperson
Shirley Chisholm, N.Y., Vice-Chairperson
Cardiss Collins, Ill., Treasurer
Ronald V. Dellums, Calif., Secretary

Yvonne B. Burke, Calif.,

William Clay, Mo.

John Conyers, Mich.

Charles Diggs, Mich.

Walter E. Fauntroy, D.C.

Harold Ford, Tenn.

Augustus Hawkins, Calif.

Barbara Jordan, Texas

Ralph Metcalfe, Ill.

Robert N.C. Nix, Pa.

Charles Rangel, N.Y.

Louis Stokes, Ohio

The President

The White House

Washington, D.C. 20500

SE
18 JUL 1977

Dear Mr. President:

The members of the Congressional Black Caucus have asked me to express to you their strong opposition to the proposal by the Office of Management and Budget to largely abolish federal housing subsidies to provide additional funds for welfare reform. Such a proposal is riddled with serious defects and would be, in both the short and long run, harmful to the nation's poorer citizens.

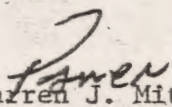
In the first place, one of the major arguments set forth in the OMB position paper is that "significant outlay saving would be possible in 1982 and beyond." Essentially, the proposed cash out attempts to take from the poor to give to the poor. Other issues aside, we believe that the focus of inquiry should be obtaining new funds to assist lower-income citizens, and finding those funds in programs now essentially subsidizing wealthier members of society and paying for unnecessary military programs.

The fundamental flaw, in practical terms, in any widespread cash out proposal, is that it is politically infeasible to provide cash welfare payments anywhere near need or even near the total of benefits available under existing programs. The OMB proposal candidly states that "OMB acknowledges that re-distributing housing subsidies to all who qualify under welfare reform (estimated to be 9.7 million) would reduce significantly the average subsidy per current recipient." Despite this admission, OMB urges that somehow poverty-level households will be better off under their plan.

Moreover, the housing programs are inherently valuable not only for the housing they provide lower-income persons, but also because they are the only coordinated effort to rehabilitate our urban areas. We do not believe that the marketplace will, by itself, improve the housing stock in the nation's cities. Poor, and frequently Black and Brown, Americans will be forced to spend their housing funds on the same dilapidated ghetto housing. In fact, the likely impact of the OMB proposal would be to have fewer dollars seeking the same amount of housing, and for housing costs to rise with no improvement in condition. The numerous recent reports on the astonishingly rapid rise in housing costs only confirm this fear.

In sum, we would urge that the Administration reject any proposal to direct cash payments. Members of the Caucus hope that the welfare reform proposals to be set forth by your Administration during the next several weeks will provide for a humane system of adequate payments which will meet the needs of our poorest citizens and help to improve their economic and social conditions.

Sincerely,


Parren J. Mitchell
Chairman

PJM/ryj

915 a.m.

THE PRESIDENT HAS SEEN.

Electrostatic Copy Made
for Preservation Purposes

THE WHITE HOUSE

WASHINGTON

July 20, 1977

MEETING WITH REP. PARREN MITCHELL

Thursday, July 21, 1977
9:15 a.m. (10-15 minutes)
The Oval Office

I. PURPOSE

From: Frank Moore 7.14.

To meet with Rep. Parren Mitchell to discuss potential legislation of interest to the Congressional Black Caucus.

II. BACKGROUND, PARTICIPANTS AND PRESS PLAN

Background: Rep. Mitchell is the Chairman of the Congressional Black Caucus. He is interested in discussing legislation of particular interest to him and the Black Caucus and, as representatives of mostly minorities and low-income people, the Black Caucus feels there is a need to share with you their concerns about the Administration's lack of initiative in some crucial areas as follows: The unemployment crisis for blacks; the most recent OMB housing proposal as it relates to the welfare program; the attacks on the 8(a) program, (the criticism is that the money allocated for the OMBE program is not being used for minority business assistance); the assaults against affirmative action; the mood of developing frustration among blacks and minorities, (only the White House can set forth in clear terms its commitment on affirmative action and civil rights). He also will request a White House meeting with 100 of the most prominent black businessmen to assess minority enterprise and a meeting with the Congressional Black Caucus. Rep. Mitchell was first elected in 1970, and received 94.4% of the vote in 1976. His district is the city of Baltimore; the population consists of 74% black, 37% white collar and 40% blue collar. Rep. Mitchell is Chairman of the Domestic Monetary Policy Subcommittee of the Banking, Housing and Urban Affairs Committee and Chairman of the Human Resources Task Force of the Budget Committee.

Participants: The President, Rep. Parren Mitchell, Frank Moore, Valerie Pinson.

Press Plan: White House photographer only.

III. TALKING POINTS

1. You might want to share the discussions on a clean draft of Humphrey-Hawkins.

Electrostatic Copy Made
for Preservation Purposes

10⁰⁰ a.m.
THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

July 20, 1977

GREETING FUTURE FARMERS OF AMERICA

Thursday, July 21, 1977

10:00 A. M. (10 minutes)

The Rose Garden

FROM: MARGARET COSTANZA MC

I. PURPOSE

To Greet the 1977 State Officers of the Future Farmers of America.

II. BACKGROUND, PARTICIPANTS AND PRESS PLAN

A. Background: This meeting will be the highlight of the Future Farmers of America State Presidents' Washington Conference. It also coincides with the organization's 50th and Golden Anniversary celebration.

B. Participants: See Tab A

C. Press Plan: Open Press Coverage - White House Photographer

III. TALKING POINTS

To be provided by Jim Fallows

IV. SCENARIO

The group of approximately 100 will be assembled in The Rose Garden at 9:50 A. M. Margaret Costanza will open the session at 9:55 A. M. and introduce you at 10:00 A. M. Standing immediately behind you on the steps will be the 6 National Officers of the FAA, Secretary Bergland and Commissioner of Education Boyer. Following your remarks there will be very brief responses by:

- James Bode, National FAA President who will present you with first 50th Anniversary Medallion and invite you to speak to FAA's 50th Convention in November.
- Glen B. Smith, Georgia State FAA President who will present you with a lifetime membership in the National FFA Alumni Association.

Following your departure the FAA members will tour The White House.

Participants

The President

Honorable Robert S. Bergland,
Secretary of Agriculture

Honorable Ernest L. Boyer,
U. S. Commissioner of Education

80 State Officers of the Future Farmers of America

6 National Officers of the Future Farmers of America

55 Family members

Anthony G. De Lorenzo,
Vice President in Charge of Public Relations
General Motors

Robert D. Lund, Vice President of General Motors,
General Manager of Chevrolet Motor Division

Richard L. Terrell,
Vice Chairman, General Motors

Glenn B. Smith, President of
Georgia State FFA Association

Margaret Costanza,
Assistant to The President

THE WHITE HOUSE

WASHINGTON

July 20, 1977

MEMORANDUM TO THE PRESIDENT

FROM: JIM FALLOWS *Jil*

SUBJECT: Future Farmers of America

Susan Battles has these suggestions:

1. You can welcome these 50 state presidents with a sense of kinship, since you belonged to the FFA as a young man in Plains. Your interest in the organization has been enduring; when the Future Farmers of America Alumni Association was established, you were a charter member. You share with this group a memory and knowledge that are too rare these days (especially in Washington)--the memory of farm work and the knowledge of what it means to work with your hands.
2. As you recount in, *Why Not the Best?*, your life and that of your family revolved around farming for decades and it was a difficult although rewarding kind of existence. You might want to expand on the "Farm" chapter in your book in which you say; "My life on the farm during the Great Depression more nearly resembled farm life of fully 2,000 years ago than farm life today." In that chapter, you mention the Future Farmers of America training you received in school. You could discuss how worthwhile the organization is and how it helps young men and women learn the skills they will need to live and work productively on a farm.

3. You proclaimed the week of March 28 National Farm Safety Week, 1977, and the first paragraph of the statement might be worth re-stating:

Many of the men and women who founded our nation were farmers, and farmers were a major factor in turning this land from a wilderness to a great and productive nation. As we enter our third century, the majority of our people no longer live on farms, but each farmer and farm worker has a more vital role than ever before in our common welfare. Not only our own people in cities and towns, but millions of others around the world, depend on the food and fiber produced on America's farms.

4. In 1938, when you were a ninth grade member of Future Farmers of America, one of the group projects was to build a few exhibits, including minitures of a farm house, Mt. Vernon, and the White House. Mr. L. King Moss, then an agriculture teacher in Plains, recently said in an FFA magazine article, "I guess that was Jimmy's first real connection with the White House."

5. Everyone with a farming background has heard about the steady decline of the small farm and the farm family. But this group of young people represents the new interest that is growing among rural youths in staying on the farm. These people can have a fine, rewarding future if they combine hard work with determination. We all depend upon farmers for our food, so there will always be a place in American society for those who choose to live off the land.

THE WHITE HOUSE
WASHINGTON

July 21, 1977

Stu Eizenstat
Jody Powell

The attached was returned in the President's outbox and is forwarded to you for appropriate handling. The signed originals have been forwarded to Bob Linder.

Rick Hutcheson

cc: The Vice President
Hamilton Jordan
Bob Lipshutz
Bert Lance
Zbig Brzezinski
Bob Linder

RE: LETTER TO THE CAB URGING EXPEDITED
IMPLEMENTATION OF THE BILATERAL AIR
AGREEMENT

X

THE WHITE HOUSE
WASHINGTON

	FOR STAFFING
	FOR INFORMATION
X	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

ACTION	FYI	
	X	MONDALE
		COSTANZA
X		EIZENSTAT
	X	JORDAN
	X	LIPSHUTZ
		MOORE
X		POWELL
		WATSON
	X	LANCE
		SCHULTZE

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER
	Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

	ARAGON
	BOURNE
X	BRZEZINSKI
	BUTLER
	CARP
	H. CARTER
	CLOUGH
	FALLOWS
	FIRST LADY
	HARDEN
	HUTCHESON
	JAGODA
	KING

	KRAFT
	LINDER
	MITCHELL
	MOE
	PETERSON
	PETTIGREW
	POSTON
	PRESS
	SCHLESINGER
	SCHNEIDERS
	STRAUSS
	VOORDE
	WARREN

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE
WASHINGTON

July 20, 1977

*Stu - Let
Today handle P.R.
re ATL, DAL, etc. J*

MEMORANDUM FOR:

THE PRESIDENT

FROM:

STU EIZENSTAT

SUBJECT:

Letter to the CAB Urging
Expedited Implementation
of the Bilateral Air
Agreement

In the attached memo Brock Adams recommends that you sign three letters: one to Chairman Kahn of the CAB, one to Cy Vance and one to Adams himself. The letter to Chairman Kahn urges him to expedite the proceedings for designating carriers to serve the new markets opened up by the signing of the new bilateral air agreement (Dallas-Ft. Worth and Atlanta). The letter also urges speedy action on the withdrawal of certification for cities which now have two American carriers, and which under the agreement will have 1 US and 1 UK carrier (Boston and San Francisco). The letters to Vance and Adams urge cooperation with the CAB in this matter.

OMB, State and Justice have recommended minor changes in these letters. The recommendations of OMB and State have been incorporated in the draft. The paragraph suggested by Justice has not, because it involves an overly specific directive to the Board concerning how to proceed.

The Vice President's staff has also requested that the CAB letter urge expedited proceedings on other issues originally covered in the Trans Atlantic Route case. I agree. Their views are reflected in the letters.

Also in this packet is a memo from Mike Egan criticizing the limitations on competition contained in the new bilateral agreement. Egan urges that to offset the loss of free competition we should seek to write into the new agreement a commitment from the British to negotiate a liberal charter agreement. The agreement now contains a non-binding understanding along these lines. Our negotiators intend to seek such a commitment.

I recommend that you sign the attached letters.

**Electrostatic Copy Made
for Preservation Purposes**

THE WHITE HOUSE

WASHINGTON

To Chairman Alfred Kahn

On July 23, 1977, the United States intends to sign a new Air Services Agreement with the United Kingdom.

The Agreement authorizes new nonstop services to certain U.S. cities for U.S. and U.K. carriers. Also, the carrier authorizations and designations under the new Agreement at certain currently certificated cities must be revised pursuant to the Agreement's new provisions regarding multiple designation.

The United States is entitled to designate a U.S. carrier to provide immediate service in the Atlanta-London and Dallas/Fort Worth-London markets. Fairness to the public requires the authorization of immediate U.S.-flag service. And to promote our foreign commerce policy of increased competition worldwide we should act with the greatest possible speed. For these reasons, I am requesting that you submit a recommendation to me by early October designating a carrier to begin service to the Atlanta-London market and a carrier to begin service to the Dallas/Fort Worth-London market.

I hope to make designations by November 1, 1977, after considering your recommendation. Service could then begin shortly thereafter. The services you recommend should enhance the competitiveness of the U.S.-flag air system and be economically viable. I would also urge you to take into account in your recommendation the fact that a U.S. carrier may provide nonstop Houston-London service after July 23, 1980, and U.S. carriers may provide one-stop service in this market upon signing of the Agreement.

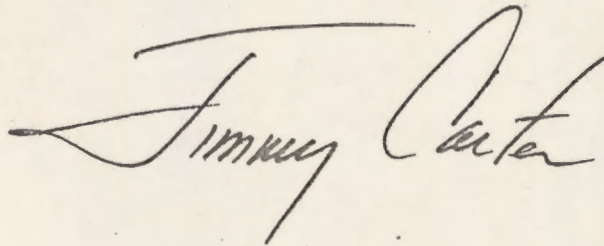
The United States must move promptly to issue the requisite foreign air carrier permits under §402 of the Federal Aviation Act to those carriers designated by the United Kingdom for scheduled operations. Therefore, I request that you send me by early October, your recommendations for any necessary amendments of the §402 permits of the designated U.K. carriers which have filed timely applications with the Board for such amendments.

With respect to those cities which are already gateways for service to the United Kingdom, the United States is required to submit new designations by November 1, 1977, and I also request your recommendation on these designations by early October, consistent with the provisions of the new Agreement regarding single and multiple designation.

Finally, I request that you move expeditiously to forward to me your recommendations concerning the other air services which were addressed by the Board in the Transatlantic Route Proceedings, but on which final action was postponed pending completion of the bilateral air negotiations with the United Kingdom.

I have directed the Secretaries of State and Transportation to provide any assistance that you may require in meeting these dates and implementing the new Agreement.

Sincerely,

A handwritten signature in cursive script, reading "Jimmy Carter". The signature is written in dark ink and is positioned below the word "Sincerely,".

The Honorable Alfred Edward Kahn
Chairman
Civil Aeronautics Board
Washington, D.C. 20428

THE WHITE HOUSE

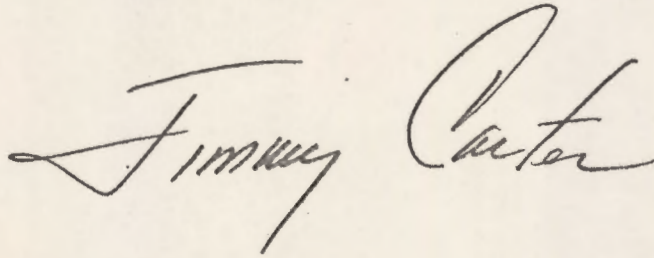
WASHINGTON

To Secretary Brockman Adams

Because of the high importance I attach to implementing the new Air Services Agreement with the United Kingdom, I have requested the Civil Aeronautics Board to send recommendations to me by early October on the issues of designation of U.S. and U.K. carriers to serve air routes between the two countries.

I also direct that you provide any necessary assistance to the Board in performing this task.

Sincerely,

A handwritten signature in dark ink, reading "Jimmy Carter". The signature is written in a cursive style, with the first name "Jimmy" and the last name "Carter" clearly legible.

The Honorable Brockman Adams
Secretary of Transportation
Washington, D.C. 20590

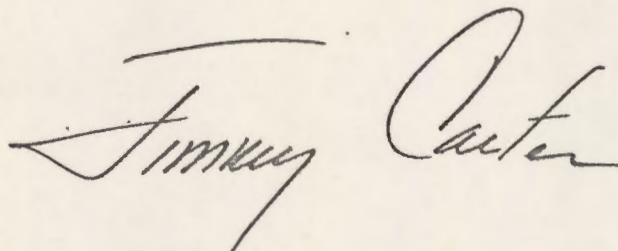
THE WHITE HOUSE
WASHINGTON

To Secretary Cyrus Vance

Because of the high importance I attach to implementing the new Air Services Agreement with the United Kingdom, I have requested the Civil Aeronautics Board to send recommendations to me by early October on the issues of designation of U.S. and U.K. carriers to serve air routes between the two countries.

I also direct that you provide any necessary assistance to the Board in performing this task.

Sincerely,

A handwritten signature in cursive script, reading "Jimmy Carter". The signature is written in dark ink and is positioned below the word "Sincerely,".

The Honorable Cyrus Vance
Secretary of State
Washington, D.C. 20520



DEPARTMENT OF STATE

Washington, D.C. 20520

Ms. Jane Frank

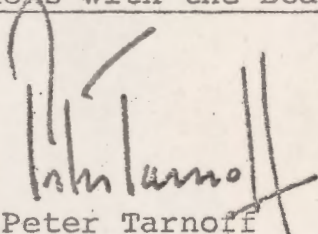
7718716

JUL 15 1977

MEMORANDUM FOR JACK WATSON AND JANE FRANK
THE WHITE HOUSE

Subject: Implementation of Bermuda II

We endorse the proposals in Brock Adams' memorandum of July 13 concerning the early certification and designation of US and UK airlines under the Bermuda II Agreement. We propose a minor modification to the draft letter from the President to the Chairman of the Civil Aeronautics Board attached to Brock Adams' memorandum. The last sentence of the second paragraph on page 2 should read (modification underlined), "Therefore, I would expect to receive by October 1, 1977, your recommendations for any necessary amendments of the §402 permits of the designated UK carriers which have filed timely applications with the Board for such amendments."



Peter Tarnoff
Executive Secretary



THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

JUL 13 1977

MEMORANDUM FOR: THE PRESIDENT
The White House

677 JUL 14 AM 10 51

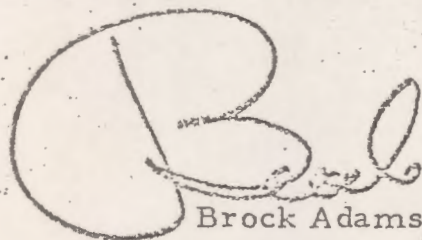
SUBJECT: Implementation of Bermuda II

The new United States-United Kingdom bilateral air transport agreement, initialed by the parties June 22, establishes a number of important new routes which offer enormous potential benefits to both airlines and the consumers of airline service. The new agreement also establishes specific deadlines by which the parties must redesignate carriers for the various routes in accord with the new provisions governing single and multiple designation. Because it is imperative that the Civil Aeronautics Board act as quickly as possible to implement these aspects of Bermuda II, I have prepared as an attachment a draft letter for your signature requesting the Board to take appropriate action by dates certain. I have also prepared attached draft letters for your signature directing the Secretaries of State and Transportation to provide necessary assistance to the Board in implementing the requested action.

Specifically, Bermuda II grants exclusive U.S. carrier authority for three years to conduct nonstop service in the Dallas/Fort Worth-London and Atlanta-London markets. A U.K. carrier has exclusive authority for three years in the Houston-London market. While the U.K. carrier need only secure a foreign air carrier permit from the Board to begin its Houston service--a permit which the Board must issue in 90 days after Bermuda II is signed--the U.S. carrier or carriers must be certificated by the Board before exclusive U.S. -flag service from Dallas/Fort Worth and Atlanta is inaugurated. As each day passes without certification of a U.S. carrier or carriers on these new nonstop routes, the value of our three-year exclusive authority at Dallas/Fort Worth and Atlanta is diminished and the value of the rights accorded the U.K. at Houston is increased. Yet, unless you request the Board to expedite the certification process, routine Board procedures could delay designation by as much as a year or more.

Such a delay would deny to U.S. carriers and consumers the benefits won through negotiations. Since the exclusive U.K. service to Houston could begin as early as October 23, the draft letter to Chairman Kahn requests the Board to submit its recommendations with respect to Dallas/Fort Worth and Atlanta to the White House by October 1. This will enable you to approve the U.S. designations by November 1 and service to begin as soon thereafter as practicable.

In addition, Bermuda II contains certain deadlines with respect to designation. By November 1, both parties must designate the airlines that will conduct service on already existing routes. Because the new agreement provides for single designation in all but the New York and Los Angeles markets, the Board must decertificate one U.S. carrier from each of the Boston and San Francisco markets, where service by two U.S. carriers is currently being operated, in sufficient time to allow for Presidential review before the November 1 deadline.^{1/} A second U.S. carrier will institute service at Los Angeles. Accordingly, the attached draft for your signature also requests that the Board submit its recommendations on the designation issues by October 1.



Brock Adams

Attachments

-
- 1/ Two U.S. carriers are designated and certificated to serve Washington, Detroit, Philadelphia and Chicago, but only one U.S. carrier now provides such service. The U.S. will need to appropriately amend the carriers' certificates and revise designations to provide for single designation at these points.

Honorable Alfred E. Kahn
Chairman
Civil Aeronautics Board
Washington, D.C. 20428

Dear Mr. Chairman:

On June 22, 1977, the United States initiated a new Air Services Agreement with the United Kingdom. ~~It is expected that~~ The Agreement will be signed on July 23, 1977, in Bermuda.

The Agreement provides substantial new competitive opportunities for the U.S. and U.K. carriers and will benefit consumers and shippers. New nonstop services are authorized to certain U.S. cities for U.S. and U.K. carriers. To permit their services to begin, first, the Board must make recommendations which I must approve under the provisions of Section 801 of the Federal Aviation Act. Second, the carrier authorizations and designations under the new Agreement at certain currently certificated cities must be revised pursuant to the Agreement's new provisions regarding multiple designation. Before the United States can make the necessary revisions, you must make appropriate recommendations to me for my approval under Section 801.

The United States is entitled to designate a U.S. carrier to provide immediate service in the Atlanta-London and Dallas/Fort Worth-London markets. Fairness to the public requires the authorization of immediate U.S.-flag service. For these reasons,

I am requesting that you submit a recommendation to me by October 1, 1977, designating a carrier to serve the Atlanta-London market and a carrier to serve the Dallas/Fort Worth-London market. I would expect to make designations by November 1, 1977, after considering your recommendation. Service could then begin shortly thereafter. The services you recommend should enhance the competitiveness of the U.S. -flag air system and be economically viable. I would also expect you to take into account in your recommendation the fact that a U.S. carrier may provide nonstop Houston-London service after July 23, 1980, and U.S. carriers may provide one-stop service in this market upon signing of the Agreement.

The United States must move promptly to issue the requisite foreign air carrier permits under §402 of the Federal Aviation Act to those carriers designated by the United Kingdom for scheduled operations. Therefore, I would expect to receive by October 1, 1977, your recommendations for any necessary amendments ^{to} of the §402 permits of the designated U.K. carriers *for which applications are filed on a timely basis.*

With respect to those cities which are already gateways for service to the United Kingdom, the United States is required to submit new designations by November 1, 1977, and I would also expect your recommendation on these designations by October 1, 1977, consistent with the provisions of the new Agreement regarding single and multiple designation.

I have directed the Secretaries of State and Transportation to provide any assistance that you may require in meeting these dates and implementing the new Agreement.

Sincerely,

Jimmy Carter

Honorable Cyrus Vance
Secretary of State
Washington, D.C. 20520

Dear Secretary Vance: ,

Because of the high importance I attach to implementing the new Air Services Agreement with the United Kingdom, I have directed the Civil Aeronautics Board to send recommendations to me by October 1, 1977 on the issues of designation of U.S. and U.K. carriers to serve air routes between the two countries.

I also direct that you provide any necessary assistance to the Board in performing this task by October 1.

Sincerely,

Jimmy Carter

Honorable Brock Adams
Secretary of Transportation
Washington, D. C. 20590

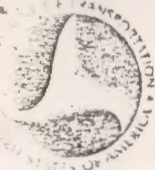
Dear Secretary Adams:

Because of the high importance I attach to implementing the new Air Services Agreement with the United Kingdom, I have directed the Civil Aeronautics Board to send recommendations to me by October 1, 1977 on the issues of designation of U.S. and U.K. carriers to serve air routes between the two countries.

I also direct that you provide any necessary assistance to the Board in performing this task by October 1.

Sincerely,

Jimmy Carter



THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

Bill J.

JUL 13 1977

MEMORANDUM FOR: THE PRESIDENT
The White House

JUL 14 AM 10 51

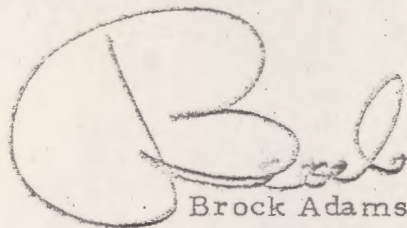
SUBJECT: Implementation of Bermuda II

The new United States-United Kingdom bilateral air transport agreement, initialed by the parties June 22, establishes a number of important new routes which offer enormous potential benefits to both airlines and the consumers of airline service. The new agreement also establishes specific deadlines by which the parties must redesignate carriers for the various routes in accord with the new provisions governing single and multiple designation. Because it is imperative that the Civil Aeronautics Board act as quickly as possible to implement these aspects of Bermuda II, I have prepared as an attachment a draft letter for your signature requesting the Board to take appropriate action by dates certain. I have also prepared attached draft letters for your signature directing the Secretaries of State and Transportation to provide necessary assistance to the Board in implementing the requested action.

Specifically, Bermuda II grants exclusive U.S. carrier authority for three years to conduct nonstop service in the Dallas/Fort Worth-London and Atlanta-London markets. A U.K. carrier has exclusive authority for three years in the Houston-London market. While the U.K. carrier need only secure a foreign air carrier permit from the Board to begin its Houston service--a permit which the Board must issue in 90 days after Bermuda II is signed--the U.S. carrier or carriers must be certificated by the Board before exclusive U.S. -flag service from Dallas/Fort Worth and Atlanta is inaugurated. As each day passes without certification of a U.S. carrier or carriers on these new nonstop routes, the value of our three-year exclusive authority at Dallas/Fort Worth and Atlanta is diminished and the value of the rights accorded the U.K. at Houston is increased. Yet, unless you request the Board to expedite the certification process, routine Board procedures could delay designation by as much as a year or more.

Such a delay would deny to U.S. carriers and consumers the benefits won through negotiations. Since the exclusive U.K. service to Houston could begin as early as October 23, the draft letter to Chairman Kahn requests the Board to submit its recommendations with respect to Dallas/Fort Worth and Atlanta to the White House by October 1. This will enable you to approve the U.S. designations by November 1 and service to begin as soon thereafter as practicable.

In addition, Bermuda II contains certain deadlines with respect to designation. By November 1, both parties must designate the airlines that will conduct service on already existing routes. Because the new agreement provides for single designation in all but the New York and Los Angeles markets, the Board must decertificate one U.S. carrier from each of the Boston and San Francisco markets, where service by two U.S. carriers is currently being operated, in sufficient time to allow for Presidential review before the November 1 deadline.^{1/} A second U.S. carrier will institute service at Los Angeles. Accordingly, the attached draft for your signature also requests that the Board submit its recommendations on the designation issues by October 1.



Brock Adams

Attachments

-
- 1/ Two U.S. carriers are designated and certificated to serve Washington, Detroit, Philadelphia and Chicago, but only one U.S. carrier now provides such service. The U.S. will need to appropriately amend the carriers' certificates and revise designations to provide for single designation at these points.

Honorable Alfred E. Kahn
Chairman
Civil Aeronautics Board
Washington, D.C. 20428

Dear Mr. Chairman:

On June 22, 1977, the United States initiated a new Air Services Agreement with the United Kingdom. The Agreement will be signed on July 23, 1977, in Bermuda.

The Agreement provides substantial new competitive opportunities for the U.S. and U.K. carriers and will benefit consumers and shippers. New nonstop services are authorized to certain U.S. cities for U.S. and U.K. carriers. To permit their services to begin, first, the Board must make recommendations which I must approve under the provisions of Section 801 of the Federal Aviation Act. Second, the carrier authorizations and designations under the new Agreement at certain currently certificated cities must be revised pursuant to the Agreement's new provisions regarding multiple designation. Before the United States can make the necessary revisions, you must make appropriate recommendations to me for my approval under Section 801.

The United States is entitled to designate a U.S. carrier to provide immediate service in the Atlanta-London and Dallas/Fort Worth-London markets. Fairness to the public requires the authorization of immediate U.S.-flag service. For these reasons,

I am requesting that you submit a recommendation to me by October 1, 1977, designating a carrier to serve the Atlanta-London market and a carrier to serve the Dallas/Fort Worth-London market. I would expect to make designations by November 1, 1977, after considering your recommendation. Service could then begin shortly thereafter. The services you recommend should enhance the competitiveness of the U.S. -flag air system and be economically viable. I would also expect you to take into account in your recommendation the fact that a U.S. carrier may provide nonstop Houston-London service after July 23, 1980, and U.S. carriers may provide one-stop service in this market upon signing of the Agreement.

The United States must move promptly to issue the requisite foreign air carrier permits under §402 of the Federal Aviation Act to those carriers designated by the United Kingdom for scheduled operations. Therefore, I would expect to receive by October 1, 1977, your recommendations for any necessary amendments of the §402 permits of the designated U.K. carriers.

With respect to those cities which are already gateways for service to the United Kingdom, the United States is required to submit new designations by November 1, 1977, and I would also expect your recommendation on these designations by October 1, 1977, consistent with the provisions of the new Agreement regarding single and multiple designation.

I have directed the Secretaries of State and Transportation to provide any assistance that you may require in meeting these dates and implementing the new Agreement.

Sincerely,

Jimmy Carter

Honorable Cyrus Vance
Secretary of State
Washington, D. C. 20520

Dear Secretary Vance:

Because of the high importance I attach to implementing the new Air Services Agreement with the United Kingdom, I have directed the Civil Aeronautics Board to send recommendations to me by October 1, 1977 on the issues of designation of U.S. and U.K. carriers to serve air routes between the two countries.

I also direct that you provide any necessary assistance to the Board in performing this task by October 1.

Sincerely,

Jimmy Carter

DRAFT - 7/7/77

Honorable Brock Adams
Secretary of Transportation
Washington, D. C. 20590

Dear Secretary Adams:

Because of the high importance I attach to implementing the new Air Services Agreement with the United Kingdom, I have directed the Civil Aeronautics Board to send recommendations to me by October 1, 1977 on the issues of designation of U.S. and U.K. carriers to serve air routes between the two countries.

I also direct that you provide any necessary assistance to the Board in performing this task by October 1.

Sincerely,

Jimmy Carter



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

1977 JUL 15 PM 4 15

JUL 15 1977

ACTION

MEMORANDUM FOR: MR. JACK WATSON
SECRETARY TO CABINET
THE WHITE HOUSE

FROM: Dennis O. Green *DOG*

SUBJECT: Implementation of Bermuda II

The Office of Management and Budget agrees that quick action by the Civil Aeronautics Board is necessary and we support the sending of a letter to the Chairman. We strongly urge, however, that the language of the letter be toned down. Our specific recommendations will be found on the attached draft letter submitted by Secretary Adams. The reasons for our recommended changes are as follows:

- 1) The President's authority to review international air cases under Section 801 (a) and (b) will be the subject of congressional hearings later this session or early next year. In the past, the President's 801 authority has been subject to attack and many people (e.g., the American Bar Association) propose its complete abolition. In this matter we do not need to bludgeon the Civil Aeronautics Board into action when they are willing to do what we want voluntarily. Blunt language in a letter to the Chairman might give more fuel to opponents of Section 801 and cause a deterioration of presidential relations with the Board.
- 2) The Board believes that there are two ways in which it may meet an October 1 deadline - by issuing an exemption (which is not subject to presidential review) or by issuing a temporary certificate pending further investigation (which is subject to presidential review). The letter to the Chairman says the Board "must" submit a recommendation subject to presidential review. We should remove those sentences from the second paragraph and retain the language in the third paragraph that "requests" the Board to submit a recommendation to the President under Section 801.
- 3) The Board itself is afraid to use the exemption process because the record to support an exemption is probably not sufficient

for the Dallas-Ft. Worth market and questionable for the Atlanta market. Exemptions could be subject to judicial challenges which would delay service.

- 4) A temporary certificate (pending a further hearing) would be subject to presidential review which would immunize the order from judicial review if based on foreign policy considerations. We understand that the Board would prefer to issue a temporary certificate since the supporting record would be "thin" and otherwise open to judicial review.
- 5) In light of the Board's apparent willingness and ability to use expedited procedures to issue temporary certificates subject to presidential review, we recommend that the President request a decision by "early October" instead of October 1. A few days will not give the British an insurmountable advantage. Such a softening of the language would be more in accord with the proper tone the letter should take to preserve Section 801 and preserve amiable relations with the Civil Aeronautics Board.
- 6) We also recommend that a sentence be added stressing the foreign policy reasons for quick action. This sentence begins to build a record for immunizing the President's decision from judicial review.

Attachment

Honorable Alfred E. Kahn
Chairman
Civil Aeronautics Board
Washington, D.C. 20428

Dear Mr. Chairman:

On ~~June 22~~ ^{July 23}, 1977, the United States ~~initiated~~ ^{signed} a new Air Services Agreement with the United Kingdom. ~~The Agreement will be signed on July 23, 1977, in Bermuda.~~

The Agreement ~~provides~~ ^{authorizes} substantial new competitive opportunities for the U.S. and U.K. carriers and will benefit consumers and shippers. New nonstop services ~~are authorized~~ to certain U.S. cities for U.S. and U.K. carriers. ~~To permit their services to begin, first, the Board must make recommendations which I must approve under the provisions of Section 801 of the Federal Aviation Act.~~

~~Also,~~ ^{Also,} ~~Second,~~ the carrier authorizations and designations under the new Agreement at certain currently certificated cities must be revised pursuant to the Agreement's new provisions regarding multiple designation. ~~Before the United States can make the necessary revisions, you must make appropriate recommendations to me for my approval under Section 801.~~

The United States is entitled to designate a U.S. carrier to provide immediate service in the Atlanta-London and Dallas/Fort Worth-London markets. Fairness to the public requires the authorization of immediate U.S. -flag service. For these reasons,

*And to provide our foreign carriers
policy of increased competition ~~unadmitted~~
we should act with the greatest possible speed*

I am requesting that you submit a recommendation to me by ~~early October~~ ^{begin service to} ~~October 1, 1977~~, designating a carrier to ~~serve~~ the Atlanta-London market and a carrier ^{begin service to} ~~to serve~~ the Dallas/Fort Worth-London market. ^{hope} I would ~~expect~~ to make designations by November 1, 1977, after considering your recommendation. Service could then begin shortly thereafter. The services you recommend should enhance the competitiveness of the U.S. -flag air system and be economically viable. I would also ^{urge} ~~expect~~ you to take into account in your recommendation the fact that a U.S. carrier may provide nonstop Houston-London service after July 23, 1980, and U.S. carriers may provide one-stop service in this market upon signing of the Agreement.

The United States must move promptly to issue the requisite foreign air carrier permits under §402 of the Federal Aviation Act to those carriers designated by the United Kingdom for scheduled operations. ^{request that you send me early October} Therefore, I ~~would expect to receive by October 1, 1977,~~ your recommendations for any necessary amendments of the §402 permits of the designated U.K. carriers, ^{which have filed timely applications of} with the Board for such amendments.

With respect to those cities which are already gateways for service to the United Kingdom, the United States is required to submit new designations by November 1, 1977, and I ~~would also~~ ^{also request} ~~expect~~ ^{early October,} your recommendation on these designations by ~~October 1, 1977,~~ consistent with the provisions of the new Agreement regarding single and multiple designation.

I have directed the Secretaries of State and Transportation to provide any assistance that you may require in meeting these dates and implementing the new Agreement.

Sincerely,

Jimmy Carter

Honorable Cyrus Vance
Secretary of State
Washington, D.C. 20520

Dear Secretary Vance:

Because of the high importance I attach to implementing the
new Air Services Agreement with the United Kingdom, I have ~~directed~~ ^{reminiscent}
the Civil Aeronautics Board to send recommendations to me by
~~October 1, 1977~~ ^{early October} on the issues of designation of U.S. and U.K.
carriers to serve air routes between the two countries.

I also direct that you provide any necessary assistance to the
Board in performing this task. by ~~October 1~~ ^{early October}.

Sincerely,

Jimmy Carter

Honorable Brock Adams
Secretary of Transportation
Washington, D. C. 20590

Dear Secretary Adams:

Because of the high importance I attach to implementing the new
Air Services Agreement with the United Kingdom, I have ~~directed~~^{requested} the
Civil Aeronautics Board to send recommendations to me by
~~October 1, 1977~~^{early October} on the issues of designation of U.S. and U.K. carriers
to serve air routes between the two countries.

I also direct that you provide any necessary assistance to the
Board in performing this task, by ~~October 1~~.

Sincerely,

Jimmy Carter



ASSISTANT ATTORNEY GENERAL
ANTITRUST DIVISION

United States Department of Justice

WASHINGTON, D.C. 20530

15 JUL 1977

MEMORANDUM FOR: Jack H. Watson, Jr.
Secretary to the Cabinet
and Assistant to the
President for Intergovernmental Relations
The White House Office

FROM: John H. Shenefield
Acting Assistant Attorney General
Antitrust Division

SUBJECT: Presidential Letter to CAB on
Bermuda II Administrative Proceedings

This will respond to your request for the Department's comments on the Department of Transportation's draft letter. The new Air Service Agreement (Bermuda II) with the United Kingdom raises four issues with respect to designation of U.S. and British air carriers. These issues can be summarized as follows:

1. Designation of a U.S. carrier to serve Dallas/Ft. Worth and Atlanta;
2. Designation of a British carrier to serve Houston;
3. Designation of a U.S. carrier to serve Los Angeles;
4. Limitation of the following markets to one U.S. air carrier:
 - a. Boston
 - b. San Francisco
 - c. Washington, D.C.
 - d. Detroit
 - e. Philadelphia
 - f. Chicago



A. Designation of a New Carrier

The designation of a new carrier under Bermuda II presents no implementation difficulty. In those cases where a new U.S. carrier is to be selected, the Board need only follow the procedures mandated by § 401 of the Federal Aviation Act. 49 U.S.C. § 1371. In performing its duties under § 401, the Board must act "consistently with any obligation assumed by the United States in any treaty convention or argument that may be in force between the United States and any foreign country" 49 U.S.C. § 1502. Thus, the Board is required to certify new carriers to serve U.S.-U.K. transatlantic markets in conformance with Bermuda II.

The same principle is also applicable to the Board's issuance of a foreign air carrier permit to a British airline operating in the Houston-London market. In that case, the Board must act in accordance with both Section 402 and 1102 of the Act. 49 U.S.C. §§ 1372, 1502.

B. Removal of an Air Carrier

The most difficult problem the Board faces in implementing Bermuda II is the removal of a presently certificated air carrier from the enumerated markets. There are presently two carriers serving the Boston-London and San Francisco-London markets; one holds permanent certification (Pan American) and the other holds temporary certification (TWA). In addition, both carriers are certificated in the other four markets, Pan American on a permanent basis and TWA on a temporary basis. In order to convert these city-pairs into single designation markets, the Board can suspend one of the carriers, or fail to renew the temporary carrier.

The Board's statutory authority to suspend or revoke air carrier certificates is contained in Section 401(g) of the Act. 49 U.S.C. 1371(g). That section authorizes the Board to suspend a certificate if the public convenience and necessity so require, but to revoke a certificate only for intentional failure to comply with any provision of the Act. As a matter of law, therefore, we believe that the Board lacks the statutory authority to revoke any air carrier's certificate--even after Bermuda II.

As noted, however, Section 1102 of the Act requires that the Board exercise its powers and duties under the Act consistently with Executive Agreements, such as Bermuda II. Section 1102, therefore, read in conjunction with Section 401(g), would appear to justify Board suspensions to accommodate Bermuda II, but not decertification. For this reason, the Board should undertake suspension proceedings only--not revocation proceedings. In our view, this type of procedure would be fully consistent with the bilateral itself, since the designation article of Bermuda II contemplates multiple designation at additional cities upon the augmentation of traffic flows. Article 3, ¶(2)(c). By suspending service only, the Board would be setting in place the administrative machinery for prompt, additional multiple designations as traffic increases. 1/

As noted previously, Pan American's authority to serve London is permanent, while TWA's London authority is temporary. In the circumstances, the Board could convert two-carrier markets to single-carrier markets by simply declining to renew TWA's temporary authority. (TWA's application for renewal of its temporary authority is one of the issues extant in the Transatlantic Route Proceeding now before the Board on remand from President Ford.) However, such a proceeding would appear to be arbitrary and grossly inequitable to TWA; it would exclude TWA from all former two-carrier markets which are to become one-carrier markets in circumstances where one would assume that the Board would attempt to effect some sort of equitable distribution between the two carriers. Accordingly, the Board should not pursue this procedure.

Although we know of no prior occasion when the Board has had to cut back on services already in place because of the requirements of an Air Transport Agreement, we believe that the Board may legally suspend certificates to conform with such an agreement. This conclusion is a function primarily of the Board's requirements to conform its conduct with extant international agreements, Section 1102 of the Act, supra, as well as legal authority to the effect that bilateral agreements are one element which comprise an assessment of the public convenience and necessity, the standard the Board must follow in suspending certificates under Section 401(g) of the Act.

1/ The existence of two certificates is not consistent with the bilateral's provision that only one carrier be designated. Designation and certification are entirely separate administrative acts taken by different agencies and for different reasons. In the past, there have been failures to designate certificated service, i.e., Pan American's service to the Soviet Union in the early 1960's.

Cf. Pan American-Grace Airways v. CAB. 342 F.2d 905 (D.C. Cir. 1964), cert. denied, 380 U.S. 934 (1965).

We recommend that any letter the President sends to the Board on this subject carefully avoid suggesting CAB procedures which would be inconsistent with the Board's statutory authority, or fundamental fairness, as discussed in this memorandum. DOT's draft letter could be amended to accomplish this goal by adding the following language before the last sentence in the second paragraph on page 1:

"Since both U.S. flag carriers are not permanently certificated at all pertinent points, revisions should be accomplished in a manner which does not prejudice carrier selection issues in favor of the permanently certificated carrier."

We do not believe it would be appropriate for the President to spell out in detail to the Board the matters discussed here. Rather, this could be accomplished by the submission to the Board of a legal brief by the Department of Justice.



Office of the Attorney General
Washington, D.C.

ASSOCIATE
ATTORNEY GENERAL

July 15, 1977

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

In recent weeks, you have taken strong and decisive steps in furtherance of your objective of introducing more price competition into international air transportation. I fear, however, that your pro-competitive initiative may be unnecessarily hindered unless the new Bermuda Air Transport Services Agreement with the United Kingdom, scheduled to be ratified by Ambassador Boyd and Secretary Adams in Bermuda within the next few weeks, is expressly conditioned on the guarantee of future unfettered competition in charter services. Although Ambassador Boyd had indicated his agreement with us that these guarantees were of significance, the draft initialed on June 22 contained no such assurances. My comments on the pending agreement will be confined to the competitive issues, since the Department does not pretend to possess foreign policy expertise.

The original Bermuda agreement has served as a model for our air transportation relations with the international community for over thirty years. It provided for minimal government interference in the provision of capacity by the various airlines, and for substantial U.S. flag service competition over international air routes, since it permitted "multiple designation" of carriers -- a provision which the United States has used to good advantage over the years. While this system did not also provide the benefits of price competition, it did serve our fundamental national policy of maximizing consumer choice in international air transportation.

From the moment the British denounced the old agreement, it was clear that their main objective was to diminish

competition in scheduled service by imposing controls on capacity and eliminating multiple designation of carriers. In all candor, I believe that the British have gained a good deal in pursuit of this objective, and but for your public endorsement of the general outline of the agreement I would recommend that you consider rejecting it.

The new agreement would effectively authorize multiple designation over two routes only, whereas there are currently eight such routes certificated to two U.S. carriers; in instances in which the British disagreed with capacity increases by U.S. carriers on the critical North Atlantic routes, it would restrict capacity increases to the greater of twenty additional flights per summer season (fifteen in the winter) over the previous year's offerings or those additional flights calculated according to market growth projections; and it would prohibit normal competitive capacity responses by an incumbent carrier to a new entrant.

We had anticipated that the realities of a difficult negotiation could result in some reduction in competition in scheduled air service although the actual outcome was more anticompetitive than we expected. It, therefore, seemed to us that the overall anticompetitive effect could be minimized if in exchange for major U.S. concessions on scheduled service competition, we obtained an agreement which would enhance the availability of the one category of service that provides a competitive spur to scheduled air service -- low cost charter services. Operations by all-charter carriers provide not only important low-cost transportation, but also provide an important competitive check on the scheduled carriers' pricing policies. Indeed, it is our view that competition from charter service increases in importance in direct proportion to decreases in the level of competition allowed among scheduled carriers.

Presently, charter operations are severely constrained. Most countries restrict the formation of charter groups, impose some form of landing restrictions, and require prior approval of each charter flight. Some governments prohibit charters completely. These practices prevail because with few exceptions, charter services are not included in the various air transport agreements.

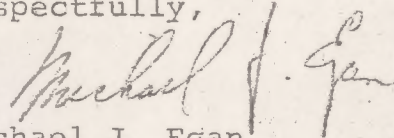
Our goal was and is to link, for the first time, a liberal charter services understanding to the scheduled services agreement with the British, thereby giving charter services the recognition required to make them widely available and a more effective competitive force. Because other

governments will demand the concessions reflected in the Bermuda II agreement, such linkage is crucial. Accordingly, on May 11 we communicated this view to Ambassador Boyd and his staff who indicated that they were of the same mind.

However, no such linkage has been secured. Instead, the British have agreed only to continue from year to year a Memorandum of Understanding governing charters and only in a manner consistent with their other international arrangements -- which are to avoid a liberal charter regime.

While I recognize the advanced state of the negotiations, I do feel it my obligation on behalf of the antitrust laws and competitive policy to bring these matters to your attention. Obviously, only you can decide where the overall national interest lies. For our part, we believe that the agreement about to be signed is unduly anticompetitive, and fails to achieve our most important objective in the charter area.

Respectfully,

A handwritten signature in dark ink, appearing to read "Michael J. Egan", written in a cursive style.

Michael J. Egan
Associate Attorney General

THE WHITE HOUSE
WASHINGTON

July 21, 1977

Stu Eizenstat

The attached was returned in the President's outbox and is forwarded to you for appropriate handling.

Rick Hutcheson

cc: The Vice President
Hamilton Jordan
Frank Moore
Jody Powell
Jack Watson
Bert Lance
Charlie Schultze
Jim Schlesinger

RE: EARMARKING GASOLINE TAXES

THE WHITE HOUSE
WASHINGTON

	FOR STAFFING
	FOR INFORMATION
X	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

ACTION	FYI	
	/	MONDALE
		COSTANZA
/		EIZENSTAT
	/	JORDAN
		LIPSHUTZ
	/	MOORE
	/	POWELL
	/	WATSON
	/	LANCE
	/	SCHULTZE

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER
	Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

	ARAGON
	BOURNE
	BRZEZINSKI
	BUTLER
	CARP
	H. CARTER
	CLOUGH
	FALLOWS
	FIRST LADY
	HARDEN
	HUTCHESON
	JAGODA
	KING

	KRAFT
	LINDER
	MITCHELL
	MOE
	PETERSON
	PETTIGREW
	POSTON
	PRESS
/	SCHLESINGER
	SCHNEIDERS
	STRAUSS
	VOORDE
	WARREN

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

July 20, 1977

MEMORANDUM FOR:

THE PRESIDENT

FROM:

STU EIZENSTAT
CHARLES SCHULTZE

Stu
CL3

SUBJECT:

Earmarking Gasoline Taxes

Yesterday you agreed not to oppose a 3-5¢ gasoline tax under consideration by Ashley's Committee. You asked for options on how to allocate this revenue.

Shortly after we met, the Democratic caucus of the Ashley Committee voted to support a 4¢ tax, tentatively earmarked: ½¢ for energy research, ½¢ for a tax turnback to the states, 1½¢ for mass transit, 1½¢ for general energy related spending. This formulation was apparently agreed to after some consultation with Administration officials.

We do not oppose any increase in gasoline taxes. We believe, however, that earmarking tax revenues is unsound budget policy. While we recognize that the political pressures in this case run counter to sound policy, we believe that any earmarking should be as limited as possible. If possible, earmarked money should be used to fund existing commitments, rather than new initiatives. In addition, earmarked money should be allocated as flexibly as the politics of the situation will permit.

Since the full Committee will be voting tomorrow on this proposal, there is not time to present you with a detailed options paper for allocating these revenues. Instead we propose to recommend some broad modifications in the Committee's proposals that will make them less specific. If the measure is voted out of committee we will have time to prepare more detailed proposals.

We believe that the proposed allocation of the tax should be modified as follows:

- 1) The tax turnback to the States should be increased to 1¢, but with as few strings as possible. *agree*
- 2) The 1½¢ for mass transit should be made more flexible to cover other energy related transportation expenditures. It should be made clear to the Committee that we do not consider this earmarked money to be an add-on to the existing levels of transportation expenditures. *agree*
- 3) The remaining energy research and energy related general revenue money should be lumped together. *agree*

Since we are not prepared to support this tax actively in return for a change, Ashley may not accept this guidance. Al Alm of Schlesinger's staff, who has been close to the Committee's work, advises against any guidance to the Committee. He feels that we have achieved a relatively flexible allocation and that we should not press Ashley this late in the discussions. He proposes focusing on a formula for the Senate.

We believe, however, that a low-pressure "clarification" of our position might be useful.

If you approve this guidance to the Committee we recommend that Frank talk to Ashley tomorrow morning before the Committee convenes. He could indicate that you do not object to the gas tax proposal, but that you prefer earmarking along the lines we have suggested. Bo Cutter in Bert Lance's absence agrees.

Approve Guidance to the Committee *chairman* ✓

Disapprove - Let Committee Vote on its Own

JC

THE WHITE HOUSE
WASHINGTON

July 21, 1977

Stu Eizenstat

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

cc: Frank Moore

RE: BLACK LUNG BENEFITS REFORM
ACT OF 1972

THE WHITE HOUSE
WASHINGTON

Mr. President:

Attached is some information prepared by OMB concerning proposed amendments to the Black Lung Benefits Act of 1972.

Frank Moore has requested that you become familiar with the legislation, because of Sen. Byrd's great interest in the subject.

Rick

THE WHITE HOUSE
WASHINGTON

	FOR STAFFING
	FOR INFORMATION
X	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

ACTION
FYI

	MONDALE
	COSTANZA
X	EIZENSTAT
	JORDAN
	LIPSHUTZ
X	MOORE
	POWELL
	WATSON
	LANCE
	SCHULTZE

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER
	Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

	ARAGON
	BOURNE
	BRZEZINSKI
	BUTLER
	CARP
	H. CARTER
	CLOUGH
	FALLOWS
	FIRST LADY
	HARDEN
	HUTCHESON
	JAGODA
	KING

	KRAFT
	LINDER
	MITCHELL
	MOE
	PETERSON
	PETTIGREW
	POSTON
	PRESS
	SCHLESINGER
	SCHNEIDERS
	STRAUSS
	VOORDE
	WARREN

THE PRESIDENT HAS SEEN.

Proposed Amendments to the
Black Lung Benefits Reform Act of 1972

C-
Stu-hald
J

Background

Under Part B of the present Black Lung program, HEW pays benefits to all persons who filed a successful claim prior to July 1, 1973. For those miners or their survivors who filed after that date, the DOL under Part C paid benefits from July 1, 1973 to January 1, 1974, but pays after that date only if the responsible coal mine operator who must be insured to pay benefits, cannot be identified.

Status of Legislation

H.R. 4544 was reported out of the House Education and Labor Committee on March 31, 1977. However, no rule has been granted because of its automatic entitlement provision which would entitle miners to black lung disability benefits based on years employment. S. 1538 was reported out of the Senate Human Resources Committee on May 16, 1977, and favorably reported out of the Senate Finance Committee on June 29 with a number of additional amendments to its tax and trust fund provisions. The coal industry has testified against any significant substantive changes but has supported industry financing through a trust fund. The United Mine Workers (UMW) and the Black Lung Associations support the House bill, which provides benefits to miners not eligible under the Senate bill.

Issues

1.) Automatic Entitlements: DOL opposes any benefits based exclusively on years of coal mine employment. DOL contends there is no correlation between length of employment and severity of black lung. The House bill requires benefit payments for miners who have worked 30 years in coal mines (25 years for anthracite miners). Congressmen Perkins and Dent, the main sponsors of H.R. 4544, have been under heavy pressure from the UMW and the State black lung associations not to compromise on this issue.

s. L I

Although Senator Randolph, the chief sponsor of S. 1538, has also been subject to the same pressure, the automatic entitlement in the Senate bill is limited to survivors of miners who had worked 25 years and provides the government an opportunity to rebut the presumption of disability.

2.) Medical Disability Criteria: The DOL supports transferring the setting of medical standards for disability under Part C from HEW to DOL. Both bills would accomplish this. However, while both bills limit DOL's authority, the House version requires the standards to be no less liberal than the interim standards used under Part B. These were adopted to let HEW quickly dispose of a large backlog, resulting in benefit payments to a substantial number of miners who do not have disabling black lung disease.

3.) Re-reading of X-rays: The DOL opposes any limitations on the government's authority to review X-rays, since present reviews show large numbers of misreading by private doctors. The House bill would ban review of a claimant's physician's interpretation of X-rays, the Senate bill of a board-certified or board-eligible radiologist's interpretation of X-rays unless fraud or poor quality of X-ray is demonstrated.

The re-reading of X-rays has become a very emotional issue with the UMW and black lung associations. Claimants are convinced that X-rays are being re-read solely for the purpose of denying claims.

4.) Financing of the Black Lung Program: The DOL has testified that the Federal government should establish a trust fund, financed by the coal industry, to pay all Part C claims. Both bills set up a trust fund. The House bill's fund would be administered by the coal industry and eliminate the responsible operator concept. It would be financed through premiums and assessments on coal mine operators. The Senate bill's fund would be administered by DOL, HEW and Treasury, and pay claims where the last coal mine employment occurred prior to January 1, 1970, or where a responsible operator could not be identified. The fund would be financed by a tax on coal production. We can accept the Senate bill.

5.) Insurance: The Senate bill would authorize DOL to sell insurance to individual operators to cover their liability for black lung benefits where private insurance premiums were unavailable. Treasury opposes this premium on the grounds that it is not a proper function of the Federal government to compete with private workers' compensation insurance and that the trust fund should not be jeopardized by having it subject to insurance underwriting losses. DOL supports the provision, but has provided no justification. OMB believes competition with private insurance should not be supported without a convincing justification and full analysis of the implications.

6.) Reopening Part B: HEW has testified against applying newly enacted standards to the 170,000 claims it denied under Part B until it has classified the reasons for denial. The House bill would reopen Part B to any miner or miners' survivors if the miners' date of last exposed employment occurred before December 30, 1969, and require HEW to review Part B denied claims and DOL to review all Part C denied claims.

The Senate bill would not allow reopening of Part B claims but any claims denied under Part B could refile under Part C.

7.) Cost Implications: The Senate bill would result in added outlays of \$1.1 billion over the next 5 years, offset by increased revenues of \$1.2 billion from trust fund taxes. H.R. 4544 would increase outlays by \$2.2 billion over the same period, offset by \$1.3 billion from premiums and assessments. The high cost of the House bill is due primarily to the reopening of Part B which will result in an estimated \$1.1 billion increase in HEW expenditures.

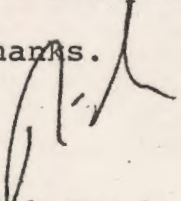
THE WHITE HOUSE
WASHINGTON

To Jim McIntyre:

Would you please have your
staff prepare an information
memo on black lung legislation?

Hopefully, it would be shorter
than the memo Frank has sent
in. Also, it should reflect
any disagreements among agencies,
instead of reflecting only
the DoL position.

Thanks.


Rick Hutcheson

Done

THE WHITE HOUSE
WASHINGTON

June 30, 1977

MEMORANDUM FOR THE PRESIDENT

FROM:

FRANK MOORE

Fm

SUBJECT:

BLACK LUNG

This memorandum is a little longer than you wish, but I recommend that you read it. This legislation is extremely important to Senator Byrd.

U.S. DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON

JUN 27 1977

MEMORANDUM FOR: FRANK MOORE

FROM: Nik Edes *NE*
Deputy Under Secretary
for Legislation

SUBJECT: H.R. 4544 and S. 1538--The Proposed
Black Lung Benefits Reform Act of 1977

This is in response to your request for information and views from the Department of Labor concerning proposed amendments to the Black Lung Benefits Act of 1972 now pending in both the House and Senate. I understand that the President wanted more detailed information about the legislation as a result of a recent meeting that he had with Congressman Rahall.

The black lung benefits program was established by Title IV of the Federal Coal Mine Health and Safety Act of 1969 as amended by the Black Lung Benefits Act of 1972. Under the present black lung program, the Federal Government pays benefits to all persons who filed a successful claim prior to July 1, 1973. In the case of those miners or their survivors who filed after that date, the Federal Government pays benefits from July 1, 1973 to January 1, 1974 and after that date only if no responsible coal operator can be found. A responsible coal operator has been defined in the regulations to be the last coal mine operator for whom the miner has worked a cumulative one year period. The pre-July 1973 program was administered by HEW and is known as part B; the later program is administered by the Labor Department and is known as part C.

Congress' original interest in passing the black lung law was that coal miners should be compensated for black lung diseases contracted in conjunction with their employment as miners and that the coal industry should bear the costs of such compensation. The current law, however, has proved seriously deficient in achieving these objectives. The law provides little or no incentive for coal operators to pay benefits, nor does it provide sanctions which the Department can impose for operators who are found liable but refuse to pay. The existing law does

not provide an effective or efficient mechanism for the payment of benefits in that it attempts to assess liability for diseases which may have been acquired in the course of many years of employment, and/or in multiple mines, upon a single operator. As a consequence of these flaws in the legislative design, employers tend to contest cases and refuse to pay even when deemed the "responsible operator." This has contributed substantially to the large backlog and time required to process black lung claims and is necessitating substantial outlays of public funds. Moreover, our administration of the program within the Department has been weak, resulting in tremendous congressional pressure for change.

The major issues addressed in black lung legislation pending before the House and Senate include whether there should be (1) automatic entitlements to benefits based solely on years of coal mine employment, (2) modifications in the standards for determining what constitutes disability for the purposes of the black lung program, (3) limitations on the re-reading of X-rays by government medical consultants, (4) revisions in the financing of black lung benefits, and (5) a change in the law to make the black lung program permanent. The Department's position on these issues and the legislative remedies contained in pending legislation are discussed below.

Automatic Entitlements

In testimony before both the House and Senate Committees the Department opposed any entitlement based exclusively on years of coal mine employment. There is no evidence that clearly demonstrates that there is a correlation between years of coal mine employment and the contraction of totally disabling pneumoconiosis.

H.R. 4544--the House bill--contains 3 automatic entitlements to benefits without regard to evidence of disease or disability based on (1) 30 years of coal mine employment in bituminous mines, (2) 25 years in anthracite mines, and (3) 17 years for survivors of miners killed in a mine accident prior to June 30, 1971.

S. 1538 would provide only one automatic entitlement to benefits and that is for survivors of miners who worked 25 years or more prior to June 30, 1971 in any kind of coal mine unless the government can prove that the miners were not partially or totally disabled due to pneumoconiosis at the time of their deaths.

With respect to the automatic entitlement issue, Congressman Perkins has made it clear that his primary concern is to provide black lung benefits to retired miners with long years of coal mine employment. He has been under heavy pressure from the United Mine Workers and particularly from the State black lung associations not to compromise on this issue.

Senator Randolph, the chief sponsor of S. 1538, has also been subject to the same pressures. However, the 25-year entitlement in the Senate bill is limited to survivors only and provides the government an opportunity to rebut the presumption of partial or total disability.

Medical Disability Criteria

The Department of Labor has testified that the authority to promulgate medical standards for the part C program should be transferred from the Secretary of HEW to the Secretary of Labor. In so doing we can take cognizance of the problems we have identified in the three years we have conducted the program; we can fit the standards to the requirements of a workers' compensation program; and can take into consideration the latest developments in this still-growing field of medicine.

Both the House and Senate bills would transfer the authority to promulgate medical standards to the Secretary of Labor. Although they both provide limitations on the Secretary's authority, the House places greater limitations on the Secretary's authority by requiring the use of the liberal interim standards used under part B. There is no significant opposition to the transfer of authority to DOL. The essential issue revolves around whether DOL should be given the authority without any limitations.

Re-reading of X-rays

The Department has opposed any limitations on the government's authority to review X-rays. We believe that the review of X-rays by government medical consultants is essential to providing the best possible evidence. The House bill would ban the re-interpretation of X-rays by a claimant's physician unless fraud or poor quality of X-ray is demonstrated. The Senate bill would prohibit the Secretary from re-reading an X-ray submitted by a board-certified or board-eligible radiologist unless fraud or poor quality of the X-ray can be demonstrated.

The re-reading of X-rays by government medical consultants has become a very emotional issue with the UMW and black lung associations. Claimants are convinced that X-rays are being re-read solely for the purpose of denying claims.

Financing of the Black Lung Program

The Department has testified that the Federal Government should establish a fund to be financed by the coal industry to pay all part C claims of miners and their survivors when the miner's last coal mine employment was prior to January 1, 1974. Any claim filed involving a miner who worked after January 1, 1974 would be paid by a responsible operator where one could be identified, and, where not, by the fund. It has proved to be extremely difficult to identify individual coal mine operators for the purpose of assigning liability for benefits because of the age of the claimant population and the nature of the coal industry. Fifty-seven percent of the miner claimants have been out of the mines for 20 years or more. Eighty percent ceased employment prior to 1969 and almost 90 percent ceased employment before 1973. Fewer than 160 of the 4,500 claims approved by DOL are currently being paid by coal operators.

H.R. 4544 would establish a trust fund for the payment of all claims financed and administered by the coal industry and would eliminate entirely the responsible operator concept. The fund would be financed through a system of premiums and assessments on mine operators. The fund would not be liable for claims where the miner's last date of employment occurred prior to December 30, 1969. (About 80 percent of the part C claimant population ceased employment prior to that date.)

S. 1538 would establish a trust fund administered by the Secretaries of Labor, HEW, and the Treasury for the payment of claims where the last coal mine employment occurred prior to January 1, 1970. The Department of the Treasury would be the managing trustee. The fund would be principally financed by the imposition of a legislatively set tax on the Btu content of coal. Individual operator responsibility would be retained for the payment of claims based upon post-January 1, 1970 employment. Operators would ~~not~~ participate in the adjudication of claims for which they would be individually liable.

The Senate bill is similar to the Department's recommendation except that it substitutes January 1, 1970 for January 1, 1974 as the cutoff date for trust fund liability.

Program Termination

The Department has testified that the 1981 termination date for the black lung program should be eliminated. However,

we do not view black lung as necessarily a permanent Federal program. It may be possible to incorporate black lung in some overall structure of workers' compensation, occupational disease, or welfare reform. Both the House and Senate bills would remove the 1981 program termination date.

Cost Implications

H.R. 4544 would be more expensive for the Federal Government than the Senate bill because many claimants could qualify for benefits under part B under which the Government pays for the benefits. The estimated costs of the House bill for a 5-year period for part C only would be \$1.3 billion. This estimate does not include any costs under part B for their current estimated 170,000 denied claims. We assume that this cost would be very substantial. If the automatic entitlements were not included in this bill, the total costs of the part C program would be \$1 billion and the costs of the part B program would be very substantially reduced.

The costs of S. 1538 to the trust fund for a 5-year period would be \$1.2 billion. Operators would assume an additional cost of \$300 million. There is a small additional cost for the Government under part B under the Senate bill. If the automatic entitlement provision were eliminated from the Senate bill, the total cost to the trust fund would be reduced to \$1 billion. Operator liability would also be reduced to just under \$300 million.

Overall View

It is the Department's view that S. 1538 is preferable to its House counterpart in dealing with the problems in the existing program, and the Department, for the most part, feels that S. 1538 deserves support. It should be noted that the coal industry has testified against any significant changes in the current law but has indicated some sympathy to a trust fund concept. The United Mine Workers and the Black Lung Associations support the House bill.

Status of Legislation

H.R. 4544 was reported out of the House Education and Labor Committee on March 31, 1977. The progress of H.R. 4544 has been stalled in the House Rules Committee primarily due to resistance to the automatic entitlements contained in the bill.

S. 1538 was reported out of the Senate Human Resources Committee on May 16, 1977. It is currently under consideration by the Senate Finance Committee and it is expected that the bill will be ordered reported out of that Committee before July 1, 1977.

C

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

**Electrostatic Copy Made
for Preservation Purposes**

July 21, 1977

MEMORANDUM FOR: THE PRESIDENT
FROM: STU EIZENSTAT *Stu*
SUBJECT: Kreps Memo, 7/18 on Local
Public Works

In the attached memo (which you need not read) Secretary Kreps has responded to a New York Times story critical of the Local Public Works Program. She makes these points:

- 1) To correct inequities in the distribution of funds to areas of highest unemployment, the Commerce Department, in consultation with Congress, chose to rely on standard data compiled by the Bureau of Labor Statistics and the Census. There are three kinds of standard areas for which data is available: cities of greater than 50,000, the "balance of counties" outside these cities of 50,000, and counties with no such cities. Each of these areas or cities receives funds based on the extent and severity of their unemployment. These funds are sub-allocated to cities and towns down to the level of 2,500 population, based on the extent and severity of unemployment as recorded in the 1970 census. It was not deemed feasible to obtain reliable, timely local unemployment data for areas smaller than this. Counties and States may assist such small towns within their jurisdiction through funds they receive, but these small towns are not given allocations as a matter of right as larger towns are.
- 2) Congress was fully consulted and in overall agreement with this approach.
- 3) The lower limit of \$75,000 on funds allocated to any jurisdiction was adopted to achieve administrative simplicity and to limit small projects of questionable counter-cyclical value. Congress was aware of this decision.
- 4) Some tradeoffs are inevitably involved in speedy distribution of such large amounts of public works funds.
- 5) Implementation is on schedule, with funds for all 8,000 projects due to go out by September 30.



THE SECRETARY OF COMMERCE
Washington, D.C. 20230

July 18, 1977

MEMORANDUM FOR THE PRESIDENT

The Sunday New York Times critical news article addresses a minor aspect of the LPW program, that of the availability of unemployment data for small communities.

General Background

In proposing to add another \$4 billion to LPW as part of the economic stimulus package, the Administration decided that these funds must be targeted to areas of greatest economic distress, those with the largest number of unemployed and highest rates of unemployment. The Administration's legislative proposals to achieve this goal and to reduce other inequities of the first round were substantially enacted by the Congress.

In addition to targeting the funds to areas with the greatest unemployment other major features of the second round are:

- Distribution of funds on the basis of a \$6 billion total program in order to compensate for inequities in the first round by adjusting the second round allocation by what the community received or did not receive in the first round;
- Use of nationally developed data to measure unemployment and to restrict the applicant's unemployment to its own area;
- Providing eligible areas with planning allocations at the outset of the second round so that State/local officials would know how much money they would be receiving. In this way only those applications which are necessary to expend an applicant's allocation need to be developed and reviewed. Over 10,000 planning allocations were computed and made to State governments, cities, towns, and counties.
- Elimination of the complicated project scoring and selection formula used in the first round of the program. In the second round State/local elected officials will set their own priorities and select projects up to the amount of funds allocated to them. In the first round the Federal agency made the decisions as to what local projects were to be funded;

- Broaden participation in the program by allocating funds to all Governors and eligible county governments in addition to individual cities and towns.

Unemployment Data Issue

The central focus of this countercyclical program both in the Administration's policy objectives and in the Act has been to target construction funds to areas of highest unemployment. Since many of the inequities of the first round program resulted from problems with unemployment data and gerrymandered areas for which it was used, we have made a consistent effort to use only uniform, standardized data for the second round of the program. Indeed given the large number of planning allocations to be made the program had to rely on federally available employment data.

As part of our continuing dialogue with the House and Senate committee staffs on the development of legislation for the second round program, the questions of uniform project areas and unemployment data were often discussed. Following the direction of the Conference Report (April 28, 1977, accompanying H.R. 11), project areas for which employment data is determined were defined as primary cities, the balance of counties excluding such cities, and a county with no primary city. As discussed in the Conference Report, primary cities were to be those with populations of 50,000 or more, except in cases where unemployment data had been developed for cities between 25,000 and 50,000. By using these three kinds of project areas, EDA was able to qualify areas throughout the country based on uniform, readily available data from the Bureau of Labor Statistics. The Conference Report in discussing the use of locally available data for cities under 50,000 recognized the requirements of OMB Circular A-46 in which Federal agencies are required to use the unemployment data provided by BLS and also recognized the time constraints involved in using other data. It was determined that it would have significantly delayed the program to obtain and use data on cities between 25,000 and 50,000.

In a number of overview papers shared with the Congress as well as testimony given during oversight hearings prior to the program's implementation, EDA officials have thoroughly explained how and what unemployment data would be used. During the May 19 House hearings, the availability of unemployment data was discussed several times. EDA representatives made it quite clear that, although the legislation provides for locally generated data, the program could not be implemented on a fair and timely basis if such data were used.

Planning allocations have been determined and announced for the three kinds of project areas according to the number of unemployed and unemployment rates of each. There is no disagreement with this level of the allocation of the \$4 billion which is clearly in accordance with areas' distress and which fulfills the countercyclical purpose of the program. There have, however, been some concerns relating to how the funds are further allocated to specific communities within a county. The points in the news article refer to this aspect of the program.

Comments on Specific Points in News Article

- (a) "Small" Towns Excluded: At the time that EDA calculated planning allocations, Bureau of Labor Statistics data were unavailable for communities with populations less than 50,000. Therefore, EDA used the Department of Labor-approved "Census Share"^{1/} method to determine numbers and rates of unemployed in those communities. However, Census unemployment data is not available for certain places with populations below 2,500. It is only these "small" places that are referred to in the news article. It is true that many such communities are excluded from the second round of the program. After weighing several alternatives, it was determined that it would not be possible to generally include these communities considering the time constraints of the program. It was not possible to solicit and review local unemployment data for hundreds of small communities with populations of less than 2,500. However, where possible adjustments were made to include some of these small communities.

It should be particularly noted that this exclusion in no way affected or reduced the amount of funds allocated for the county.

- (b) Divergence from Congressional Direction: The Congressional directions contained in the Conference Report have been mentioned above. Since the availability of unemployment data and EDA's ability to quickly implement the program have been thoroughly discussed with Committee staff and during hearings, it is believed that Congressional intent is being fulfilled. Clearly from a countercyclical point of view, the purpose of the program is met regardless of which small towns within a county actually receive the funds.

^{1/}The Census Share method entails calculating the ratio of numbers of unemployed and labor force in a city or town in 1970 to the county-wide unemployment data in 1970. That ratio is then applied to the most recent countywide 12-month average unemployment statistics, yielding an approximation of current unemployment in the community.

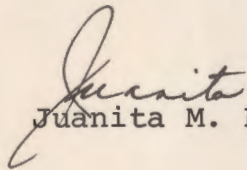
- (c) \$75,000 Lower Limit: The article mentions that the policy of not allocating any funds to a community which would be entitled to less than \$75,000 also discriminates against small places. Setting such a limit was mentioned during oversight hearings and discussed with House and Senate Committee staff when it was adopted as a policy. The intent here is to minimize the number of small projects of questionable countercyclical value and to reduce administrative burden.

In summary, although the concerns of the Congressmen and affected small communities are understandable, they must be weighed in the context of the program's overall objectives, the complexities of dealing with the problems created by round one, and the truly massive administrative task in managing a \$4 billion effort within time constraints involved.

CURRENT STATUS

Final planning targets were issued on July 15 which included adjustments to the initial planning targets issued on June 9 and the distribution of some \$200 million which was not previously allocated. Those with new or revised planning targets have 28 days within which to submit their grant application for EDA review and award.

To date 3,360 projects totalling nearly \$2 billion have been received by the regional offices. A total of almost 8,000 projects will be processed between now and September 30. The first awards will be announced this week with the processing of over 1,000 public works grant awards per week during August and September. The program is well underway, it is meeting the objectives that the Administration and the Congress set forth for it and if maximum opportunity is to be made of this construction season, it must go forward without any other delays.


Juanita M. Kreps

THE WHITE HOUSE
WASHINGTON
July 21, 1977

Stu Eizenstat
Tim Kraft

The attached was returned in
the President's outbox and is
forwarded to you for appropriate
handling.

Rick Hutcheson

cc: The Vice President
Bob Lipshutz
Frank Moore
Jack Watson
Joe Aragon

RE: CALL TO CONGRESSMAN RODINO

THE WHITE HOUSE
WASHINGTON

<input type="checkbox"/>	FOR STAFFING
<input type="checkbox"/>	FOR INFORMATION
<input checked="" type="checkbox"/>	FROM PRESIDENT'S OUTBOX
<input type="checkbox"/>	LOG IN/TO PRESIDENT TODAY
<input type="checkbox"/>	IMMEDIATE TURNAROUND

ACTION	FYI	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	MONDALE
<input type="checkbox"/>	<input type="checkbox"/>	COSTANZA
<input checked="" type="checkbox"/>	<input type="checkbox"/>	EIZENSTAT
<input type="checkbox"/>	<input type="checkbox"/>	JORDAN
<input checked="" type="checkbox"/>	<input type="checkbox"/>	LIPSHUTZ
<input checked="" type="checkbox"/>	<input type="checkbox"/>	MOORE
<input type="checkbox"/>	<input type="checkbox"/>	POWELL
<input checked="" type="checkbox"/>	<input type="checkbox"/>	WATSON
<input type="checkbox"/>	<input type="checkbox"/>	LANCE
<input type="checkbox"/>	<input type="checkbox"/>	SCHULTZE

<input type="checkbox"/>	ENROLLED BILL
<input type="checkbox"/>	AGENCY REPORT
<input type="checkbox"/>	CAB DECISION
<input type="checkbox"/>	EXECUTIVE ORDER
	Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

<input checked="" type="checkbox"/>	ARAGON
<input type="checkbox"/>	BOURNE
<input type="checkbox"/>	BRZEZINSKI
<input type="checkbox"/>	BUTLER
<input type="checkbox"/>	CARP
<input type="checkbox"/>	H. CARTER
<input type="checkbox"/>	CLOUGH
<input type="checkbox"/>	FALLOWS
<input type="checkbox"/>	FIRST LADY
<input type="checkbox"/>	HARDEN
<input type="checkbox"/>	HUTCHESON
<input type="checkbox"/>	JAGODA
<input type="checkbox"/>	KING

<input checked="" type="checkbox"/>	KRAFT
<input type="checkbox"/>	LINDER
<input type="checkbox"/>	MITCHELL
<input type="checkbox"/>	MOE
<input type="checkbox"/>	PETERSON
<input type="checkbox"/>	PETTIGREW
<input type="checkbox"/>	POSTON
<input type="checkbox"/>	PRESS
<input type="checkbox"/>	SCHLESINGER
<input type="checkbox"/>	SCHNEIDERS
<input type="checkbox"/>	STRAUSS
<input type="checkbox"/>	VOORDE
<input type="checkbox"/>	WARREN

Electrostatic Copy Made
for Preservation Purposes THE WHITE HOUSE

WASHINGTON

July 20, 1977

Stu: done -
a) You meet with
Rodino's staff right away
b) Ask Atty Gen to meet
with Rodino early next
week.
c) Then I'll meet with
him - J.C.

MEMORANDUM FOR:

THE PRESIDENT

FROM:

FRANK MOORE *FM*
STUART EIZENSTAT *Stu*

SUBJECT:

Call to Congressman Rodino

We recommend that you call Congressman Rodino this week about the undocumented aliens policy.

Rodino has been involved with the aliens issue for nearly a decade, was the prime mover behind the two illegal aliens bills that passed the House in recent years (to die in the Senate), and views himself as easily the leading Congressional authority on the subject. More importantly, though, Rodino believes he was responsible, during the campaign, for educating you on the complexity and importance of the problem; and he feels that those discussions led to your early decision to propose a comprehensive solution.

For all those reasons, Rodino would like to be consulted by you before any public announcement is made of the Administration's policy. (The Attorney General and Stu have each consulted with Rodino and briefed him on the policy during its development; those briefings occurred before your final decision to limit the non-deportables to a five-year term).

Rodino did not re-introduce his bill this year; he has been waiting to see the Administration's proposals, before deciding whether to support it or re-introduce his own bill. Thus far, Rodino is disappointed, on two major grounds, with the Administration's policy:

1. Non-Deportable Status: Rodino favors granting permanent resident alien status to all illegal aliens resident in the U.S. for at least 3 years. He regards the non-deportable status as certain to produce greater discrimination against Hispanics (because "non-deportables" would be

"second-class citizens"); and as unduly harsh treatment for a Democratic Administration.

2. Employer Sanctions: Rodino favors criminal sanctions for employers caught a third time hiring illegal aliens (the first two offenses would be civil penalties). Our proposal would impose only civil penalties (injunction and monetary fines).

The points you might make:

1. You recognize his expertise in the area and want to hear his views prior to the making of any final decisions. You recognize that his role will be critical to House action on the Administration's proposal. *THE SPEAKER SAYS "WE WILL PASS ONLY WITH PETER WANTS"*
2. You understand from the Attorney General and Stu Eizenstat that he has some problems with the direction of our policy. You would like to hear first-hand his concerns.
3. He should recognize that the direction in which we are heading is not really that different from his proposal. First, our employer sanctions are civil in their first stages, but if an injunction is violated then criminal contempt is available as a penalty. Second, we are considering permanent resident alien status for illegals here since 1970. For others, we are considering a "non-deportable" status which is not greatly different from permanent resident alien status; and the option to move to permanent status is always available, after additional information is secured through registration.
4. You would like the Attorney General to meet with him again next week to review our proposed policy thoroughly. You hope that he might consider introducing our bill, reserving the right to make some changes later.